

PUBLIC MEETING
STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (Cal/EPA)
INTERAGENCY WORKING GROUP ON ENVIRONMENTAL JUSTICE (IWG)

JOE SERNA JR. BUILDING
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9:00 A.M.

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APPEARANCES

INTERAGENCY WORKING GROUP MEMBERS

Dr. Alan Lloyd, Chairperson, Cal/EPA Secretary

Dr. Joan E. Denton, Director, Office of Environmental Health Hazard
Assessment (OEHHA)

Mr. Val Seibal, Chief Deputy Director

Ms. Rosario Marin, Chairperson, California Integrated
Waste Management Board, also represented by
Mr. Mark Leary, Executive Director

Mr. Leonard Robinson, Chief Deputy Director, Department of
Toxic Substances Control

Ms. Nancy Sutley, Board Member, State Water Resources
Control Board

Mr. Mary-Ann Warmerdam, Director, Department of Pesticide
Regulation

Ms. Catherine Witherspoon, Executive Officer, Air Resources
Board

STAFF

Mr. James Branham, Cal/EPA Undersecretary

Ms. Tam Doduc, Cal/EPA Deputy Secretary

Ms. Malinda Hall, Cal/EPA Special Assistant for Environmental Justice

Dr. John Faust, Office of Environmental Health Hazard Assessment

Dr. Shankar Prasad, Board Advisor, Air Resources Board

Mr. Dmitri Smith, California Integrated Waste Management Board

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Felipe Aguirre, Comite Pro Uno

Ms. Martha Arguello, PSK

Mr. David Arrieta, DNA Associates

Ms. Cynthia Babich, Del Amo Action Committee

Mr. Davis Baltz, Commonweal

Ms. Sylvia Betancourt, East Yard Communities for
Environmental Justice

Mr. Robert Cabrales, Communities for a Better Environment

Dr. Henry Clark, West County Toxics Coalition

Ms. Cynthia Cory, California Farm Bureau

Ms. Caroline Farrell, The Center on Race, Poverty and the
Environment

Mr. Tim Gabriel, Natural Resources Defense Council

Mr. Elviq Hernandez, Pacoima Beautiful

Mr. Shabaka Heru, Community Coalition for Change

Mr. Kevin Keefer, Western Plant Health Association

Ms. Yuki Kidokovo, Communities for a Better Environment

Mr. Rey Leon, Latino Issues Forum

Mr. Angelo Logan, East Yard Communities for Environmental
Justice

Ms. Rachel Lopez, CCAEJ

Ms. Barbara Lu, Northern Sonoma Air Pollution Control
District

Mr. Joe Lyou, California Environmental Rights Alliance

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Bill Magavern, Sierra Club

Mr. Bruce Magnani, California Chamber of Commerce

Mr. Jesse Marquez, Coalition for a Safe Environment

Ms. Laurie E. Nelson, Consumer Specialty Products Association

Mr. Penny Newman, CCAEJ

Ms. Betsy Peterson, California Seed Foundation

Ms. Renee Pinel, Western Plant Health Association

Mr. Ron Reed, Karuk Tribe

Mr. Fernando Rejon, Pacoima Beautiful

Mr. Tim Shestek, American Chemistry Council

Ms. Rosie Solorzano, Youth United for Community Action, East Palo Alto

Ms. Brenda Southwich, California Farm Bureau

Ms. Emma Suárez, California Farm Bureau Federation

Ms. Diane Takvorian, Environmental Health Coalition

Mr. Jesus Torres, Communities for a Better Environment

Ms. Mily Trevino-Sauceda, Lideres Campesinas

Ms. Cindy Tuck, CCEEB

Ms. Lenore Volturno, Pala Band of Mission Indians

Dr. Barry Wallerstein, South Coast Air Quality Management District

Ms. LaDonna Williams, People for Children's Health & Environmental Justice

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1 PROCEEDINGS

2 CAL/EPA SECRETARY LLOYD: Good morning. I'd like
3 to welcome everybody to the second day of our meeting on
4 environmental justice. You can see this is important to
5 us, given the amount of time we're spending on it, as we
6 should.

7 I'd like to welcome my colleagues particularly
8 from the BDOs. And those in the audience who are
9 concerned about representation, you can see from my
10 colleagues on the left and on the right, the males are an
11 endangered species. So --

12 (Laughter.)

13 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Looks even
14 to me.

15 (Laughter.)

16 CAL/EPA SECRETARY LLOYD: But in all sincerity,
17 I'm delighted to welcome my colleagues from the different
18 BDOs. And I know they've already spent a lot of time on
19 this issue.

20 And I'd also like to welcome my colleague, the
21 Undersecretary Jim Branham, who's been intimately involved
22 and will be intimately involved with the whole process.
23 And I have to step out twice today, once for a cabinet
24 meeting and once to meet with the representatives from the
25 agricultural community that Secretary A.G. Kawamura is

1 hosting here. So that will be this afternoon. And I step
2 out from 10 to 11. Jim will be taking over during that
3 time.

4 Maybe before we -- and I'd like also to thank, by
5 the way, the members yesterday of the Advisory Committee.
6 I understood you went a very long day. So I really
7 appreciate that very much. And my understanding, I guess
8 we'll hear some more from Tam as to how that went. But I
9 guess there were no surprises and didn't expect that -- my
10 hope as I left you that we'd have a unanimous consensus by
11 the end of the day didn't quite materialize.

12 But I also understand, however, that the spirit
13 of discussion was very positive, and I think that's a real
14 tribute to you all.

15 So maybe with that we'll let everybody introduce
16 themselves, and including the people around the sides so
17 that we know who's here, et cetera.

18 Alan Lloyd, Secretary, Cal EPA.

19 CAL/EPA UNDERSECRETARY BRANHAM: Jim Branham,
20 Undersecretary, Cal EPA.

21 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Leonard
22 Robinson, Chief Deputy Director, Department of Toxic
23 Substances Control.

24 DPR DIRECTOR WARMERDAM: Mary-Ann Warmerdam,
25 Director, Department of Pesticide Regulation.

1 CIWMB CHAIRPERSON MARIN: Rosario Marin,
2 Chairwoman of the California Integrated Waste Management
3 Board.

4 SWRCB MEMBER SUTLEY: Nancy Sutley, member of the
5 State Water Resources Control Board.

6 ARB EXECUTIVE OFFICER WITHERSPOON: Catherine
7 Witherspoon, Executive Officer of the Air Resources Board.

8 OEHHA DIRECTOR DENTON: Joan Denton, Director of
9 OEHHA.

10 ARB ADVISOR PRASAD: Shankar Prasad, ARB,
11

12 CAL/EPA SPECIAL ASSISTANT HALL: Malinda Hall, Cal
13 EPA.

14 CAL/EPA DEPUTY SECRETARY DODUC: Tam Doduc, Cal
15 EPA.

16 MR. KEEFER: Kevin Keefer, Western Plant Health
17 Association.

18 MR. BECK: Steve Beck, Western Plant Health
19 Association.

20 DTSC DIVISION CHIEF MARXEN: Jim Marxen from
21 Department of Toxics.

22 DTSC DIVISION CHIEF TRGOVCICH: Caren Trgovcich,
23 Department of Toxics.

24 MR. HERU: Shabaka Heru, Community Coalition for
25 Change.

1 MS. BABICH: Cynthia Babich, Del Amo Action
2 Committee.

3 MR. AGUIRRE: Felipe Aguirre, Comite Pro Uno.

4 MS. MEDINA: Cynthia Medina, Del Amo Action
5 Committee.

6 MS. KIDOKORO: Yuki Kidokoro, Communities for a
7 Better Environment.

8 MS. LAMB: Linda Lamb, Communities for a Better
9 Environment.

10 MR. CABRALES: Robert Cabrales, Communities for a
11 Better Environment.

12 MR. TORRES: Jesus Torres, Communities for a
13 Better Environment.

14 MS. KIM: I'm Candice Kim. I'm here with
15 Physicians for Social Responsibility of Los Angeles.

16 DPR ASSISTANT DIRECTOR JONES: Tobi Jones,
17 Department of Pesticide Regulations.

18 MR. LINDSAY: Duane Lindsay, California Walnut
19 Commission.

20 OEHHA CHIEF COUNSEL MONAHAN: Carol Monahan with
21 the Office of Environmental Health Hazard Assessment.

22 SWRCB EMPLOYEE ASSISTANCE CHIEF PEREZ: Adrian
23 Perez, State Water Resources Control Board.

24 MR. PASCUAL: Romel Pascual, U.S. EPA.

25 MR. LYOU: Joe Lyou, California Environmental

1 Rights Alliance.

2 DR. WALLERSTEIN: Barry Wallerstein, South Coast
3 Air Quality Management District.

4 MS. LEE: Barbara Lee, Northern Sonoma Air
5 Pollution Control District.

6 ARB ASSISTANT DIVISION CHIEF MURCHISON: Linda
7 Murchison, California Air Resources Board.

8 ARB DEPUTY EXECUTIVE OFFICER TERRY: Lynn Terry,
9 Air Resources Board.

10 ARB DIVISION CHIEF FLETCHER: Bob Fletcher, Air
11 Resources Board.

12 MR. VANCE: Bill Vance, Cal EPA.

13 MR. ARRIETA: David Arrieta, DNA Associates.

14 MS. TUCK: Cindy Tuck, California Council for
15 Environmental and Economic Balance.

16 MS. FIELD: Erin Field, Western Growers.

17 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Paul
18 Gosselin, Department of Pesticide Regulations.

19 OEHHA CHIEF DEPUTY DIRECTOR SIEBAL: Val Siebal
20 from OEHHA.

21 MR. HUI: Steve Hui, Air Resources Board.

22 MS. BIRCH: Melissa Birch, Physicians for Social
23 Responsibility.

24 MS. ARGUELLO: Martha Arguello, Physicians for
25 Social Responsibility and Community Action to Fight

1 Asthma.

2 MS. BUCKLEY; Karen Buckley, ARB.

3 MR. MAGNANI: Bruce Magnani, California Chamber
4 of Commerce.

5 MS. PINELL: Mary Pinell, Regional Council of
6 Rural Counties.

7 CIWMB ASSISTANT DIRECTOR PACKARD: Rubia Packard
8 with Waste Management Board.

9 CIWMB EXECUTIVE DIRECTOR LEARY: Mark Leary,
10 Integrated Waste Management Board.

11 MR. SMITH: Dick Smith, San Diego Air District.

12 DPR ASSISTANT DIRECTOR FEDERIGHI: Veda
13 Federighi, Pesticide Regulations.

14 MS. SOUTHWICK: Brenda Southwick, California Farm
15 Bureau.

16 MR. JONES: Bill Jones, L.A. County Fire
17 Department.

18 MS. TREVINO-SAUCEDA: Mily Trevino-Sauceda with
19 Lideres Campesinas which is a statewide organization for
20 Farm Worker Women.

21 MS. NEWMAN: Penny Newman, Center for Community
22 Action for Environmental Justice, Riverside/San Bernardino
23 area.

24 MS. TAKVORIAN: Diane Takvorian, Environmental
25 Health Coalition, San Diego/Tijuana.

1 DR. CLARK: Dr. Henry Clark, West County Toxics
2 Coalition, Richmond, California.

3 MR. FRIESEN: Ron Friesen, Cal EPA and ARB.

4 MS. PETERSON: Betsy Peterson, California Seed
5 Association.

6 MS. NELSON: Laurie Nelson, Consumer Specialty
7 Products Association.

8 MS. PINEL: Renee Pinel, Western Plant Health.

9 MR. BALTZ: Davis Baltz, Commonweal.

10 MR. WEBB: Mike Webb, California Building
11 Industry Association.

12 MS. FARRELL: Caroline Farrell, Center on Race,
13 Poverty and the Environment

14 MR. WELLS: Jim Wells, Environmental Solutions
15 Group.

16 MS. BYRD?: Vanessa Byrd, Department of Toxic
17 Substances Control.

18 MS. MILLER: Elizabeth Miller, Air Resources
19 Board.

20 MR. SEGAWA: Randy Segawa, Department of
21 Pesticide Regulations.

22 CAL/EPA SECRETARY LLOYD: Anybody who has not
23 identified themselves just came in late?

24 MR. GRABIEL: Timothy Grabiell, Natural Resources
25 Defense Council.

1 CAL/EPA SECRETARY LLOYD: Thank you.

2 Again, this is the joint public meeting of the
3 Interagency Working Group and the California Advisory
4 Committee on Environmental Justice.

5 As I indicated yesterday to several of you, EJ is
6 a priority for me as Secretary for the Agency and also for
7 Secretary Tamminen. I think we set a process in place for
8 achieving EJ compatible with our goals of protecting
9 public health and the environment as well as providing
10 essential resources for continued long-term economic
11 growth and prosperity. And that's a key issue there.

12 In my view EJ is definitely a public health issue
13 and a challenge to balance some of the potential competing
14 issues. This was mentioned yesterday. Some of the urban
15 in-fills so that we can reduce commuting times, et cetera,
16 brown fields developments and then with EJ.

17 And there are many communities in the state
18 impacted by source of air pollution. And little did I
19 think about five years ago at a time when I was challenged
20 by the Mayor of Huntington Park to come down to the
21 community and understand firsthand the problems faced by
22 the community and by the traffic and by the growth -- and
23 I say little did I realize that now Rosario Marin, the
24 ex-mayor, is one of my colleagues here, and a very valued
25 colleague, doing a great job for us. And I think living

1 testimony that we all work together on these issues, no
2 matter where we come from.

3 And for those of you who don't know, if you just
4 take one of your \$20 notes out, and you can see Rosario's
5 signature on there. So the fact that she's here it's
6 obvious it continues to be a priority for her. And I
7 think she's got some unique perspectives, as I learned
8 from the community piece there.

9 And I think the children and people are
10 surrounded by activities. Some of these activities bear a
11 high accumulative pollution in their community. And I
12 think it will take all our best thinking to see how we can
13 address these issues. These are tough issues. And, as I
14 said yesterday, I'm really delighted that you spend so
15 much time trying to grapple through them. But only
16 working together can we address them, and at the same time
17 carry out the Governor's directive to reduce air
18 pollution, environmental pollution while continued
19 economic growth.

20 I think it's important that we evaluate the
21 cumulative impacts on a technically sound and systematic
22 basis as we look ahead today.

23 I think the -- some of the other issues at least
24 I think are worth highlighting is that -- some feel that
25 maybe risk assessment is the only way to go. Others have

1 expressed doubts on that. I think considering that not
2 all toxic substances have risk numbers, questions arise as
3 to what can be done in those circumstances. And so
4 someone recommend that we look at emissions and exposures
5 as potential risk indicator in such cases. Yesterday I
6 was hoping that -- I'd asked the Committee to discuss the
7 issue, and I'm looking forward to hearing the opinions and
8 recommendations today.

9 I think that over the course of the day we will
10 discuss the staff recommended EJ action items that were
11 carried out by the different boards and departments over
12 the next 12 to 14 months. And I know the Committee met
13 yesterday to discuss some of these projects. I've had
14 some varying feedback on the projects, both from the
15 people here, but also from the people outside.

16 And I think they've also received some public
17 testimony yesterday. So clearly we'd also like to take
18 public testimony on the agenda items today.

19 So I'm hoping that we can hear a brief summary of
20 the discussions and recommendations on each of the items
21 as we move ahead.

22 As I indicated, I'm going to step out a couple of
23 times today, but will be back. And I think maybe other --
24 I know that Chairperson Marin also said she has to step
25 out. And does anybody else of the BDOs have to step out?

1 I think, Mary, you have to step out for a little while.
2 But we will be back. And there will be representatives
3 filling in for that time period.

4 Again, if any member of the group would ask for
5 additional clarification or discussion items if there's
6 anything you'd like to see added to the agenda or
7 whatever.

8 Again, I think the primary goal today would be to
9 see how in fact we can come to some consensus on the
10 definition and the framework for the pilot projects. So
11 if we can't get that definition and if we need more time
12 to do that, well, it's important that we take that time,
13 because I think -- we're talking about spending valuable
14 resources at a time of continued constraints. And so it's
15 important that what we do, what's done out there is going
16 to be of value to moving the process forward. So if it
17 means taking a little bit of extra time, well, we should
18 do that.

19 Also I hope that again we don't debate on some of
20 the larger philosophical issues but focus on the agenda.
21 Clearly there's some big issues that I think we grappled
22 on yesterday. And I think if we get bogged down on too
23 much of that, then we won't accomplish what we need to
24 accomplish. But on the other hand, how can we move this
25 ahead -- and as I said, if we have some specific concerns

1 or comments on the projects or how they might be utilized,
2 well, I think they should be heard. And the last thing we
3 want to do is to do something and then people say, "Well,
4 that was a waste of time and a waste of money." So now is
5 the opportunity to try to shape it for the way we want it.

6 As I said yesterday, the -- and I think Jim and I
7 were at a meeting with some of the agricultural community,
8 who were concerned, by the way, that -- they looked at the
9 representation of the Advisory Committee as composed
10 yesterday. And we informed them that that was not the
11 selection of Cal EPA, that the composition was set by the
12 Legislature. But it was our intent to listen to all the
13 stakeholders as we move ahead.

14 So with that, any questions before I -- I guess I
15 will turn it over to -- Tam, are you going --

16 CAL/EPA DEPUTY SECRETARY DODUC: Actually I have
17 two logistic items to request.

18 First, this meeting is being web broadcasted. So
19 we'll ask that all the speakers please speak into the
20 microphones. And, secondly, for those who are watching
21 the web broadcast, there is an E-mail address to which you
22 can send comments, questions, suggestions. And that E
23 mail address is COASTAL, C-o-a-s-t-a-l, RM at Cal/EPA,
24 that's C-a-l-e-p-a dot CA dot GOV. And I think someone
25 will be watching for printouts.

1 Great.

2 Should I go ahead and --

3 (Thereupon an overhead presentation was

4 Presented as follows.)

5 CAL/EPA DEPUTY SECRETARY DODUC: Technical

6 difficulties.

7 --o0o--

8 CAL/EPA DEPUTY SECRETARY DODUC: Well, I think as

9 mentioned by Dr. Lloyd and as evident by the discussions

10 we had yesterday, the participation today and the

11 discussions that we'd have throughout the entire EJ

12 process that Cal EPA and the BDOs have been involved in,

13 that stakeholders' involvement has been critical to our

14 success to get us to the point that we are today. And one

15 of the -- the key factor in all of this is our EJ Advisory

16 Committee.

17 Next please.

18 --o0o--

19 CAL/EPA DEPUTY SECRETARY DODUC: Our Advisory

20 Committee, which Dr. Lloyd has also referenced as being

21 established in statute, is to represent various

22 stakeholders involved in environmental justice issue

23 matters involved in environmental matters. The Advisory

24 Committee was convened three years ago and was asked by

25 the Secretary, by the Interagency Working Group to look at

1 very key, very important environmental justice issues and
2 develop recommendations to Cal EPA on how to develop our
3 intra-agency environmental justice strategy as well as how
4 to go forth in implementing environmental justice through
5 our various programs.

6 The interagency working group that is meeting
7 here today -- next slide please.

8 --o0o--

9 CAL/EPA DEPUTY SECRETARY DODUC: -- is also
10 established in statute, as including the Cal EPA
11 Secretary, the heads of our various boards, departments
12 and offices, as well as the Director of the Governor's
13 Office of Planning and Research. It is this group to whom
14 Cal EPA and our staff -- and the staff look to for
15 direction on implementation of EJ activities.

16 --o0o--

17 CAL/EPA DEPUTY SECRETARY DODUC: The Advisory
18 Committee completed in October of 2003 an extensive
19 recommendations report outlining activities that would
20 further environmental justice within Cal EPA-specific
21 programs. Those activities cover a range of issues
22 involving public participation, cumulative impacts
23 precautionary approach, and also community capacity and
24 public participation. And it is the IWG -- the IWG in
25 October 2003 adopted a resolution which accepted the

1 Advisory Committee's report and committed Cal EPA to
2 including those policy goals recommendations in developing
3 our EJ strategy.

4 Next slide please.

5 --o0o--

6 CAL/EPA DEPUTY SECRETARY DODUC: This took place
7 in 2004. The Advisory Committee's recommendations report
8 was taken by staff and used as the basis for developing an
9 EJ strategy, that was then approved by the Interagency
10 Working Group in 2004.

11 Along with this strategy, which we view as a
12 long-term overarching mechanism to achieving environmental
13 justice, then Secretary Tamminen also directed, and the
14 IWG agreed, to also work on a short-term EJ action plan.
15 And the EJ action plan was intended to allow us to explore
16 the complex issues of cumulative impacts precaution, how
17 to take those issues from what's written on paper to
18 actual application in real situations in communities,
19 involving of course the participation of the Advisory
20 Committee and communities that are being affected by these
21 various issues.

22 And the EJ action plan was also intended to be a
23 tool for us to identify where the gaps are, where we
24 needed to have more data, develop more tools, develop more
25 precaution, if necessary, in order to address these

1 definition, and then to inventory the methods and
2 approaches: Inventory how we're already currently
3 utilizing precaution; inventory what tools are available
4 right now to do cumulative impact analysis; identify the
5 gaps and needs: What are we missing? What other tools,
6 what other information, what other approaches do we need
7 in order to address EJ issues?

8 And then come together, and from all these
9 experiences working together, to develop guidances for how
10 Cal EPA will integrate these concepts into our programs;
11 and of course to do all this with meaningful public
12 participation, with involvement from the communities, and
13 of course our Advisory Committee.

14 Next slide.

15 --o0o--

16 CAL/EPA DEPUTY SECRETARY DODUC: In order to test
17 and explore these key issues, we propose conducting pilot
18 projects throughout of California. Four of the BDOs,
19 boards, departments and offices, were charged with leading
20 specific pilot projects throughout California. While a
21 BDO is designated lead for a certain project, that does
22 not mean that other BDOs may not be involved in that
23 particular project.

24 For example, the Department of Pesticide
25 Regulation is asked to lead a project in the Central

1 Valley involving pesticides. The Air Resource Board is
2 charged with leading a pilot project in southern
3 California involving air emissions. Department of Toxic
4 Substances Control was asked to lead a project in northern
5 California involving some type of brown fields cleanup
6 issues. And the State Water Resources Control Board was
7 asked to lead a project that would involve tribal issues
8 and water resources issue.

9 Now as each BDO leads their respective pilot
10 project, they'll be asked to look for opportunities to
11 address cross-media issues with other boards and
12 departments within Cal EPA, look for opportunities to
13 engage other state agencies as appropriate, and also look
14 for opportunities to test and -- test the concepts and
15 apply the concepts of precaution and cumulative impacts as
16 we go through the pilot projects.

17 And another goal for the pilot projects is to
18 focus on an actual -- developing an actual plan, looking
19 at reducing children's environmental risk.

20 So these are the key activities in the EJ action
21 plan.

22 Next please.

23 --o0o--

24 CAL/EPA DEPUTY SECRETARY DODUC: We have proposed
25 to implement the EJ action plan in five phases from now

1 through 2006. And in Phase 1 -- next.

2 --o0o--

3 CAL/EPA DEPUTY SECRETARY DODUC: -- which is where
4 we are today, we're looking at developing working
5 definitions for cumulative impacts and precautionary
6 approach. We understand that -- we expect that these
7 working definitions may change during the course of the
8 implementation of the pilot projects. But we felt that
9 there needs to be a starting point, that we can all
10 hopefully come to consensus on, on which to move forth on
11 these two important principles.

12 In Phase 1 we also propose to develop pilot
13 project proposals. These are in conceptual stages. The
14 idea is to develop them in Phases 2 and 3, after they've
15 obtained the initial approval of the IWG, and of course
16 been discussed by the Advisory Committee.

17 Also in Phase 1, we ask DTSC to lead our public
18 participation effort in inventory of current public
19 participation activities and make recommendations for
20 areas of improvement. These are the recommendations that
21 the IWG will be considering today. And upon their
22 approval, either today or at some other point, we would
23 then move into Phase 2.

24 And Phase 2, once the pilot project concepts have
25 been approved, our first task would be to work with local

1 advisory groups specific to those pilot projects in order
2 to further develop those concepts.

3 Also in Phase 2 is the activities of collecting
4 environmental data to identify emissions discharges
5 exposures, to identify where the data gaps are and what
6 are the resources we would need in order to address those
7 data gaps. Would that mean including Department of Health
8 Services or asking for assistance in order to obtain those
9 data? Those are the kinds of issues that we'll be looking
10 at in Phase 2.

11 --o0o--

12 CAL/EPA DEPUTY SECRETARY DODUC: In Phase 2, also
13 the opportunity to identify cross-media issues. And also
14 as part of that process to inventory the current
15 precautionary approaches in those pilot projects: How,
16 where are we already using some type of precaution in
17 these activities?

18 Also in Phase 2 is the inventory of cumulative
19 impacts tools: What tools do we currently have? And
20 what's lacking, what's missing, what do we need?

21 Also in Phase 2 is the further development of
22 public participation tools and methodologies and improving
23 our public participation efforts through the local
24 advisory committees, and with input from the IWG and the
25 Advisory Committee.

1 I should say that in the EJ action plan the --
2 for each of these phases staff would bring back to the
3 Advisory Committee and to the Interagency Working Group
4 key recommendations, key findings, at crucial points,
5 before we move from one phase to the other.

6 --o0o--

7 CAL/EPA DEPUTY SECRETARY DODUC: After Phase 2 we
8 would move into Phase 3, where there would be -- once
9 we've identified the tools that are available to do
10 cumulative impacts assessments for these pilot projects,
11 performing some type of cumulative impact analysis based
12 on the tools available. Also in Phase 3 we want to
13 identify areas in these pilot projects where additional
14 precaution may be necessary and what those reasonable
15 cost-effective approaches and mitigation strategies would
16 be.

17 Also in phase 3 we want to start developing,
18 looking at children's risk, looking at developing children
19 risk reduction plans and completing our activities to
20 provide better public participation tools and develop
21 community capacity building.

22 --o0o--

23 CAL/EPA DEPUTY SECRETARY DODUC: In Phase 4 is
24 where we would test some of the mitigation strategies
25 through the children's risk reduction plan.

1 And in Phase 5 we evaluate the pilot projects,
2 what we've learned, the tools that we've developed, the
3 tools that we've identified, the gaps that we've
4 identified as being necessary, and develop the guidance
5 and recommendations on how to proceed, what additional
6 tools are necessary, how do we implement the statutory or
7 regulatory changes that are necessary in order for us to
8 advance on these critical EJ issues.

9 So in a nutshell, these are the five phases of
10 the EJ action plan that we propose to be conducted from
11 now through the end of 2006.

12 --o0o--

13 CAL/EPA DEPUTY SECRETARY DODUC: And then my last
14 slide is a recap of the activities that have been
15 undertaken in Phase 1. We started in November with -- in
16 October and November with a series of public workshops.
17 We had open public comment through January 3rd, and
18 released some draft staff recommendations on January 14th.
19 We then conducted a series of conference calls, web-based
20 discussions and released revised draft staff proposal on
21 February 4th, which were discussed yesterday at the
22 Advisory Committee meeting and today. And we look forward
23 to more discussion today and further direction from the
24 IWG on Phase 1 activities.

25 CAL/EPA SECRETARY LLOYD: Thank you very much,

1 Tam. An excellent overview.

2 Any questions or comments from colleagues here?

3 Thank you.

4 So now I guess we go on to the staff
5 presentation.

6 John is going to do it on the multi-media
7 cumulative impacts.

8 OEHHA TOXICOLOGIST FAUST: Good morning I'm John
9 Faust, the toxicologist with the Office of Environmental
10 Health Hazard Assessment.

11 (Thereupon an overhead presentation was
12 Presented as follows.)

13 OEHHA TOXICOLOGIST FAUST: I'm just going to give
14 a very brief presentation today about the considerations
15 we made in developing our working definition for
16 multi-media cumulative impacts.

17 So if I could have the next slide.

18 --oOo--

19 OEHHA TOXICOLOGIST FAUST: Part of the process of
20 definition development included the consideration of
21 existing definitions such as those that were left to us
22 from the previous Environmental Justice Advisory Committee
23 in their interim definition. We also looked at existing
24 definitions in regulation, including those from the
25 California Environmental Quality Act and the National

1 Environmental Policy Act as well as others.

2 We also considered public comment. As Tam said,
3 there were a number of workshops conducted throughout the
4 state. And we took comments on potential definition
5 development there, as well as receiving letters and
6 E-mails and the EPA on-line forum.

7 Third, an important consideration in our
8 definition development was the scope of the pilot
9 projects. As you'll see this afternoon, we have a diverse
10 set of projects throughout the state, and we wanted
11 something that was suitable for all of them.

12 And, finally, as Tam said, as we move through
13 this process, it will be a flexible one. And using the
14 experience we gained from the implementation with the
15 pilot projects, we're open to refining and modifying based
16 upon that experience.

17 So on the next slide --

18 --o0o--

19 OEHHA TOXICOLOGIST FAUST: -- I have our proposed
20 working definition, which is: Multi-media cumulative
21 impacts means the combined effects of emissions,
22 discharges and exposures, human health and the environment
23 in a geographic area, taking into account sensitive
24 populations.

25 Since that time, based upon brief staff

1 discussion, we are considering a minor modification in the
2 words to sort of clarify our intent with respect to
3 exposures. And I've included that on the next slide --

4 --o0o--

5 OEHHA TOXICOLOGIST FAUST: -- with the key words
6 highlighted in red, where we've changed the words to:
7 Multi-media cumulative impacts means the combined effects
8 of emission and discharges on exposures, human health and
9 the environment in a geographic area, taking into account
10 sensitive populations.

11 So at this point I believe we're moving to public
12 comment, is that --

13 CAL/EPA DEPUTY SECRETARY DODUC: I think we have
14 some public testimony.

15 CAL/EPA UNDERSECRETARY BRANHAM: Yeah, we have
16 cards.

17 CAL/EPA SECRETARY LLOYD: Tam, I guess we need to
18 hear from the Committee before we get the public comment.

19 Yeah, I was just testing you.

20 (Laughter.)

21 OEHHA DIRECTOR DENTON: Alan, do you want to hear
22 from us? Is that what you're --

23 CAL/EPA SECRETARY LLOYD: Yes.

24 OEHHA DIRECTOR DENTON: -- waiting for? This is
25 Joan.

1 CAL/EPA SECRETARY LLOYD: Oh, I thought we can
2 wait to hear from the Committee.

3 OEHHA DIRECTOR DENTON: Oh, you want to hear from
4 the Advisory Committee?

5 CAL/EPA SECRETARY LLOYD: Yeah, I think that's --
6 isn't that what it says on the agenda, the Advisory --

7 CAL/EPA DEPUTY SECRETARY DODUC: I thought it said
8 public comment first.

9 CAL/EPA SECRETARY LLOYD: Okay. Well, I think
10 maybe we'd hear from the Committee first.

11 It's likely to be shorter.

12 EJ ADVISORY COMMITTEE MEMBER LEE: Good morning,
13 Mr. Secretary and members of the Interagency Working
14 Group. I'm Barbara Lee. I'm one of the Advisory
15 Committee members. I serve on the previous committee.
16 And on account of having demonstrated my skill in taking
17 notes and writing things out for folks, I was asked to
18 make a short presentation to you about our discussions
19 yesterday.

20 As you heard, we had a very long meeting, and we
21 actually extended it until 7 o'clock in order to
22 accommodate all the public comment. In spite of that, we
23 did not get to all of the issues that were on the agenda.
24 There were two primary reasons for that.

25 The first is that a significant number of people

1 traveled to Sacramento to make testimony to the Committee
2 yesterday. And we felt it was really important that we
3 make the time to hear everything that they had to say.
4 Public participation is a crucial part of environmental
5 justice efforts. And we wanted to increase the amount of
6 time we had on the agenda for folks to give their views to
7 us so that they could inform our discussions and our
8 deliberations.

9 The second reason is that there were a number of
10 really significant issues on our agenda, and we believed
11 there are some big decisions and important efforts in
12 front of Cal EPA as you move forward implementing your
13 action plan. And we didn't feel that the process would be
14 well served if we treated those issues lightly or did not
15 have a good discussion about them.

16 What we were able to cover is the proposed
17 definition of cumulative impacts and also the proposed
18 definition of the precautionary approach.

19 We were not able to discuss the public
20 participation recommendations or the pilot project
21 proposals. We were hoping in light of that, that there
22 could be some time spent today engaging with you a little
23 bit in dialogue on the pilot project proposals. But given
24 the complexity of the proposals and the difficulties
25 associated with the issues of selecting sites and all of

1 that, we didn't think that trying to have a rushed
2 discussion and forcing recommendations to you on that
3 would be helpful to you or to us.

4 So we have planned to meet again as quickly as
5 possible to discuss the pilot projects in greater detail
6 with Cal EPA staff, including the scope of the projects
7 and the methods and the ways in which you plan to
8 implement them. But we were not able to have a discussion
9 about the selection of the pilot projects. And we are
10 counting on individual Committee members and members of
11 the community groups who have come here today with
12 comments to convey those to you, and hopefully that will
13 inform your discussion.

14 As far as our discussion of cumulative impacts
15 definitions went, we felt that there were a number of
16 areas in the proposed definition that needed greater
17 clarity. And one of the ways that we have found better
18 success in getting closer to consensus over the years we
19 have worked together was to discuss those specific areas
20 and try to characterize them, and then from that come up
21 with a -- with revisions to the definition that people
22 would be hopefully more comfortable with. And so I'm -- I
23 believe you have in front of you a narrative I wrote
24 rather quickly yesterday to try to capture our discussion.
25 I want to make a couple of minor changes to it based on

1 feedback I've gotten from Committee members who did not
2 have the opportunity to give me feedback yesterday.

3 At the end of the first paragraph where it says,
4 "for these effects to be analyzed," it should be "analyzed
5 or addressed".

6

7 CAL/EPA SECRETARY LLOYD: That was the end of the
8 first paragraph?

9 EJ ADVISORY COMMITTEE MEMBER LEE: At the end of
10 the first paragraph --

11 CAL/EPA SECRETARY LLOYD: Analyzed or addressed?

12 EJ ADVISORY COMMITTEE MEMBER LEE: Analyzed or
13 addressed.

14 There are a couple of typos, and I'm not going to
15 bother to point those out to you. I'm sure you'll pick
16 them up as you're reading.

17 In addition, in the beginning of the third
18 paragraph, the second line down, it says, Quantitative
19 risk assessment can provide important information." We
20 don't only mean quantitative risk assessment; we mean
21 other quantitative measures. So "quantitative measures
22 such as quantitative risk assessment" would be a more
23 appropriate characterization.

24 Other than that, I had some feedback from both
25 the business sector and the community sector, and they

1 feel that this is a reasonable characterization of our
2 discussion.

3 I'm not going to try to read it to you because,
4 as you can see, it's rather long. What I would like to
5 point out is that there were terms in the staff-proposed
6 definition that caused discomfort because of their
7 vagueness. And these include the term "effects," the
8 phrase "emissions and discharges," "exposures,"
9 "geographic area". And also we wanted an inclusion of
10 "socioeconomic factors" at the end.

11 So I'm going to read you now our proposed revised
12 definition, and then try to characterize why we felt this
13 proposal was a better working definition for you. And
14 then I'll talk about the areas where we did not reach
15 consensus.

16 The alternative definition that we propose is not
17 multi-media cumulative impacts, but cumulative impacts,
18 because we feel that you can be looking as a single medium
19 or a multi-media, depending on what the focus of your
20 effort is.

21 So we would say, "Cumulative impacts means
22 exposures or public health and environmental effects from
23 the combined emissions and discharges in a geographic
24 area, including environmental pollution from all sources,
25 whether single or multi-media, routinely, accidentally or

1 otherwise released. Impacts take into account sensitive
2 populations and socioeconomic factors."

3 Some of the areas of sensitivity that we wanted
4 to make sure were specifically considered, and that is why
5 we made some changes, include the fact that it can be
6 single or -- single medium or multi-media, the nature of
7 the releases, but they don't necessarily have to be -- the
8 emissions and discharges don't have to be only those that
9 are planned for or those that are allowed under a permit;
10 that significant impacts can occur from accidental
11 releases, upset conditions that are unplanned.

12 And also from criminal activities where there are
13 intentional releases that are not allowed under a permit
14 or under statute or under regulation, those impacts are
15 not accidental. They are not necessarily routine, but
16 they can have significant impacts. And the nature of the
17 emissions and discharges to be included in these kinds of
18 analyses has been an area in the past that has been open
19 to a lot of debate, and so we felt greater clarity on that
20 was important.

21 In terms of the issue of peer review, which is a
22 term that appeared in the narrative on the staff proposal,
23 saying that only peer-reviewed information would be
24 included in the cumulative impact analysis, there was a
25 lot of debate about that. We did not reach consensus on

1 that. I think I can characterize our discussions by
2 saying that there are important quantitative analyses and
3 peer-reviewed analyses that can give good information.
4 But we did not want to create hurdles for members of the
5 public to participate, to offer data, to stretch the
6 bounds of what is currently considered in our analyses
7 that -- where we feel the current analyses don't go far
8 enough, don't consider enough factors, there may not be
9 peer-reviewed approaches available, there may not be
10 quantitative measures available. We certainly would
11 strive towards that, but we want to make sure that a
12 broader, more robust set of data is included reflecting
13 community experience, reflecting other less quantifiable
14 measures that can impact how exposures are realized as
15 public health and environmental impacts within the
16 community.

17 As I said, there was not consensus. The business
18 community feels more strongly about using quantitative
19 measures and peer-reviewed measures, especially as we move
20 farther away from traditionally established and understood
21 analyses and move into looking at things like
22 socioeconomic factors. The farther we get down that line,
23 the greater their sense of uncertainty and concern about
24 what measures would be used and how they would be used.

25 At the same time, members of the community and

1 the environmental representatives feel very strongly that
2 the current paradigm does not accurately reflect the
3 exposures that are experienced in the community and they
4 need to be expanded to include new measures and new
5 approaches.

6 That's the tension that we struggled with. In
7 the end, when we voted on our definition, the business
8 community did not support the definition that we proposed.

9 CAL/EPA SECRETARY LLOYD: Did they come up with
10 another one?

11 EJ ADVISORY COMMITTEE MEMBER LEE: I believe
12 CCEEB has proposed a definition. But that was not offered
13 as part of -- it was offered for the Committee to discuss,
14 but it was not -- I was not instructed to bring that
15 forward by the Committee. But I'm sure CCEEB would be
16 happy to provide it.

17 CAL/EPA UNDERSECRETARY BRANHAM: Barbara, could
18 you be more specific as to what specifically in the
19 definition the business community was uncomfortable with?
20 And I have a hunch we'll hear directly from them since
21 Cindy's shaking her head back there.

22 EJ ADVISORY COMMITTEE MEMBER LEE: The
23 inclusion -- I think the most sensitive was the inclusion
24 of socioeconomic factors.

25 And I am drawing a blank.

1 CAL/EPA UNDERSECRETARY BRANHAM: That's okay.

2 EJ ADVISORY COMMITTEE MEMBER LEE: Probably if I
3 was -- spread my notes out in front of me, I could
4 reconstruct it for you. But it was a long day yesterday.

5 CAL/EPA UNDERSECRETARY BRANHAM: That's fine.

6 CAL/EPA DEPUTY SECRETARY DODUC: Actually I can
7 add to that. My recollection from yesterday's
8 discussion -- and I guess CCEEB -- Cindy can speak for
9 CCEEB. But I recall some discussion regarding exposures
10 as well.

11 EJ ADVISORY COMMITTEE MEMBER LEE: There was some
12 reordering that was done in where "exposures" occurs in
13 the definition that they were not comfortable with. I did
14 not get the sense that they would -- my sense was that
15 some of that reorganization of the wording drew discomfort
16 because they did not have a chance to discuss it and
17 understand what it meant. Cindy did not have a chance to
18 review that with her members, nor did the other business
19 representatives with their members.

20 But my sense was that the inclusion of
21 socioeconomic factors was a higher flag for them, and that
22 they were fairly confident that even if they had a chance
23 to discuss it, that they would not be supportive of that.

24 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.
25 We'll hear from Cindy momentarily.

1 Any other questions of Barbara from the group?

2 EJ ADVISORY COMMITTEE MEMBER LEE: And I want to
3 apologize to my fellow Committee members if I didn't
4 capture everything exactly as folks hoped. But I think at
5 least the narrative that you have will give a better sense
6 where our discussion went on cumulative impacts.

7 CAL/EPA UNDERSECRETARY BRANHAM: Well, thank you
8 for your effort through the night on this.

9 Public comment, right?

10 Okay. We're going to begin the public comment.
11 And since we have two mikes up here -- maybe we can drag
12 another chair up -- why don't we try to get people up
13 there two at a time so we can move through this.

14 And I think, given the discussion, Cindy Tuck, we
15 will start with you, followed by Robert Cabrales.

16 MS. TUCK: Good morning, Undersecretary Branham
17 and members of the Interagency Working Group. Cindy Tuck
18 with the California Council for Environmental and Economic
19 Balance.

20 CCEEB is a coalition that is comprised of
21 business leaders, leaders from organized labor, and
22 leaders from the public.

23 Obviously the definition of multi-media
24 cumulative impacts is a very important issue. I
25 appreciate the opportunity to provide comments this

1 morning.

2 CCEEB had been comfortable with the proposed
3 definition in the staff's proposal from February 4th. We
4 thought that was a workable definition. CCEEB has two
5 strong concerns about the version that the Advisory
6 Committee developed yesterday. And the vote on that
7 was -- I believe the final vote was 8 to 4.

8 The first primary concern, as Barbara Lee alluded
9 to, is the issue of socioeconomic factors. And some of
10 the factors that the Committee was talking about were
11 things like health insurance, nutrition, shelter, all very
12 important issues to communities, issues that need to be
13 addressed. But the question is: Should they be
14 considered in the definition of multi-media cumulative
15 impacts?

16 So what our concern is is that such -- whether or
17 not the factors affects susceptibility is really
18 speculative at this point. There's not data in
19 peer-reviewed studies to support inclusion of those
20 factors in the definition.

21 And we understand that this is supposed to be a
22 working definition for the pilot projects. But it is a
23 key starting point to the finalization of that term and
24 future policies of the agency on this area.

25 Now, at least some of the EJ organizations when

1 they talk about cumulative impacts and what kind of
2 measures they'd like to see down the road, they talk about
3 things like if there's too much cumulative impacts in an
4 area, they would say there should be no new permits, that
5 existing permit levels should be ratcheted down. And this
6 isn't the meeting to talk about what the measures are
7 going to be. That's a little bit down the road.

8 But when we start hearing discussions about no
9 new permits in an area, which would mean a new facility
10 wouldn't go forward, or if an existing company wanted to
11 expand an operation, they wouldn't get that permit if
12 there was too much of a problem from cumulative impacts in
13 that area, that makes the definition critical. It
14 shouldn't be based on speculation. It shouldn't be fuzzy.
15 It should be objective and it should be based on sound
16 science.

17 And we think that Cal EPA in developing the
18 action plan has made a commitment to basing the definition
19 on sound science in the program.

20 Now, staff did open this issue on page 2 of the
21 document -- the staff proposal from February 4th. And,
22 you know, we have concerns about that. But the way that
23 staff wrote that recommendation was to do it we think in a
24 manner that would be consistent with doing this work with
25 a strong scientific foundation. It's opening the door,

1 but it's looking at are these things -- are there real
2 impacts of this? Are there peer-reviewed tool? Are there
3 data? And if there aren't, then those would need to be
4 developed. So the staff recommendation would be workable.

5 So that's the first issue for us on this area.

6 The second issue that was discussed yesterday has
7 to do with --

8 CAL/EPA UNDERSECRETARY BRANHAM: Just one second,
9 Cindy.

10 MS. TUCK: Sure.

11 CAL/EPA UNDERSECRETARY BRANHAM: Mary-Ann.

12 DPR DIRECTOR WARMERDAM: Just a quick question on
13 socioeconomic impacts.

14 Is there a nervousness just bringing that into
15 the definition at all, or is it the way it's approached in
16 the definition as proposed by the CEJAC?

17 MS. TUCK: Well, right now what the factors would
18 be is undefined. And then for some that are talked about,
19 there's not studies saying that this would affect
20 susceptibility. There's not -- you know, there hasn't
21 been the peer review. And so its speculative. And Cal
22 EPA doesn't usually take action based on things that are
23 speculative. And when we're talking about the future of
24 permitting for California that's going to affect jobs in
25 California, that shouldn't be based on speculation. It

1 needs to be based on sound science. So that's where we
2 are on social factors.

3 CAL/EPA UNDERSECRETARY BRANHAM: One more
4 question, Cindy.

5 MS. TUCK: Okay.

6 CAL/EPA UNDERSECRETARY BRANHAM: Rosario.

7 CIWMB CHAIRPERSON MARIN: I have to grapple with
8 this from -- I have to leave right now. And I would love
9 to hear more of what this is all about. But my concern,
10 Mr. Secretary, is that when we're talking about
11 socioeconomic impacts -- or concerns rather, if we were
12 not to allow any more permits under this potential
13 scenario, the potential of jobs would not be there. And
14 if people -- if one of the problems is that some of these
15 communities may lack health insurance, usually it is
16 people that don't have jobs or that have very low paying
17 jobs that don't have insurance.

18 So the problem of not allowing businesses to
19 expand diminishes the number of jobs, therefore diminishes
20 the number of people that could potentially have health
21 insurance. I mean I see a -- it's a circle. How can we
22 improve more health care -- and I don't even know whether
23 EPA is really the place to -- I mean we can advocate for
24 more health insurance. But is that a little bit beyond
25 the scope of where we are? I'm really -- I think it's a

1 huge issue, and is that where we need to be here?

2 MS. TUCK: Well, certainly the issue of having
3 health care for people and solving crime and shelter and
4 all those issues are really issues for agencies. I think
5 the question here is whether or not -- if a community
6 experiences those factors, whether they're more
7 susceptible to environmental pollution and health effects
8 because of that exposure. That's the real question.

9 But the answer to that question isn't there yet.
10 And that's where staff I think in their proposal is saying
11 they want to open that door and start evaluating that
12 question. Where the Advisory Committee was wanting to go
13 with just go ahead and consider it, you know, somehow even
14 though the science isn't there and, you know, go ahead
15 forward. We think it's premature. You need the
16 scientific basis, particularly given how this information
17 could be used later.

18 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.

19 Why don't we let Cindy finish up her testimony
20 and then we can circle back with any follow-up questions.

21 Go ahead, Cindy.

22 MS. TUCK: The other issue has to do with the
23 actual definition itself. As I said, we were comfortable
24 with the February 4th proposal. This morning staff has
25 made a couple suggested changes that I see in the board.

1 I think what we would suggest is moving the "and" to
2 "before exposures," so that you looked at the combined
3 effect of emissions and discharges and exposures on human
4 health and the environment.

5 So we would move the "and" before "exposures" and
6 the "on" to before "human health". With those two changes
7 we could support staff's proposal as modified this
8 morning.

9 We don't support -- and we did oppose yesterday
10 at the Advisory Committee -- what the Advisory Committee
11 drafted yesterday, because the Committee has language
12 talking about exposure or health effects. And, you know,
13 at the Air Resources Board we worked out language for what
14 cumulative impacts would be would be looking at emissions,
15 exposure and health risk. And we think it's critical to
16 the cumulative impacts discussion that you're looking at
17 the health effects -- health risk information. You're not
18 just look at exposure alone; your looking at all the
19 information, the emissions, the exposure, and health risk
20 or health effects information.

21 So those are the suggested changes we would have
22 to that. And with that we could support the staff's
23 modified definition.

24 CAL/EPA UNDERSECRETARY BRANHAM: There was one too
25 many prepositions in that form. Could you just tell me

1 one more time where you think the "ands" and "ors" ought
2 to go?

3 MS. TUCK: Sure. Do you have this language?

4 CAL/EPA UNDERSECRETARY BRANHAM: Yes.

5 MS. TUCK: Okay. Instead of putting the "and"
6 after "emissions" we would suggest putting the "and" after
7 "discharges". So it would be "the combined effects of
8 emissions, discharges and exposures." And then move
9 staff's insert of "on" to "after exposures". So it would
10 be, reading again, "The combined effects of emissions,
11 discharges and exposures on human health and the
12 environment."

13 CAL/EPA DEPUTY SECRETARY DODUC: I think that --

14 CAL/EPA UNDERSECRETARY BRANHAM: That's the
15 staff's language -- original language before the changes.

16 MS. TUCK: Is it? Okay.

17 I'm sorry. I don't have it memorized.

18 CAL/EPA UNDERSECRETARY BRANHAM: That's okay.
19 Sometimes it's all circular.

20 MS. TUCK: So we'd go back to the original.

21 CAL/EPA UNDERSECRETARY BRANHAM: Okay.

22 ARB ADVISOR PRASAD: Cindy, a point of
23 clarification on that.

24 The whole purpose of moving that -- switching
25 those two was to capture for the sake of compounds that

1 are toxic. But you can not do a risk assessment. But we
2 know they are toxic. We know they are being emission --
3 they have emissions and there is an exposure. So that was
4 the question yesterday posed by the Secretary to give the
5 feedback. And in those cases how do we make the
6 assessment of those compounds? Because in this current
7 paradigm of what happens is those compounds get excluded
8 because they do not have a given risk number.

9 MS. TUCK: Well, our concern is that if you just
10 talk about exposure or health effects, so that it could be
11 based on just exposures alone, you're -- you know, you
12 might be saying you should act when there's a very low
13 exposure.

14 Also, if there's a gap on the risk side, the
15 Agency should be working to fill those gaps so that the
16 risk assessment could be done.

17 ARB ADVISOR PRASAD: But in a cumulative impact
18 sense, when we know that the substance has a risk and it
19 is listed as a toxic air contaminant and it is another
20 hazardous substance, and then what -- it has not gone
21 through the process of having a risk number, the only way
22 to characterize at this point in a scientific sense --
23 we're not talking of any chemical or anything -- but those
24 who have the toxicity, should we not be looking that in
25 the context of exposure, whether it is high or not, to get

1 into the point of cumulative impact? That was the
2 reasoning for our part of changing that.

3 MS. TUCK: Understood. But we really think you
4 need to be looking at the information you have on health
5 effects, health risk altogether, and that's what the
6 consensus was at ARB. With the environmental justice
7 organizations, at the table part of the discussion,
8 emissions, exposure and health risk, the original staff
9 proposal from February 4th is consistent with what ARB
10 did. And that's something we -- at least at CCEEB we can
11 support that. I can't speak for the business community as
12 a whole.

13 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,
14 Cindy.

15 MS. TUCK: Thank you.

16 CAL/EPA UNDERSECRETARY BRANHAM: Was Robert
17 Cabrales here?

18 Okay. And Jesus Torres, if we could have you go
19 ahead and come on up to the table as well.

20 MR. CABRALES: Good morning. My name is Robert
21 Cabrales, a community organizer with the Communities for a
22 Better Environment.

23 I'm here to touch on the cumulative impact
24 definition. First, I'd like to get a -- the needed
25 definition in language that we need in communities that

1 are impacted. I think it's not fair to say that -- well,
2 it's fair to say for us that we're not necessarily trying
3 to redline the businesses that are coming into the
4 community or that are expanding. I think the most
5 important thing is that -- you know, we're not trying to
6 stop industry growth or economic growth. We want clean
7 and safe industries in our communities. You know,
8 sustainability is very much needed in our community, and
9 we haven't seen that kind of industry growth or economic
10 growth in our communities.

11 And because we have seen those patterns in the
12 past industries that are dirty, that are polluting, it's
13 very important that we keep this kind of language in our
14 road map towards clean environment in the future.

15 I think it's also important that we keep in mind
16 that sound science is not always in favor of protecting
17 communities. It's usually studies that are made to look
18 at how communities like these are benefited through the
19 industry. So I guess it's always to see how the industry
20 is going to benefit. So -- yeah, I just -- I support the
21 language on it. I don't see any need to change it,
22 because we need these kind of strong languages to protect
23 human health.

24 So thank you.

25 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,

1 Robert.

2 Jesus, followed by Elvia Hernandez.

3 MR. TORRES: Good morning, members of the Board.

4 My name is Jesus Torres. I'm a community organizer with
5 Communities for a Better Environment in Wilmington.

6 I've lived in the L.A. Harbor area for over 26
7 years. My parents bought a house there 12 years ago and
8 have lived there ever since.

9 We live approximately 1.8 miles from
10 ConocoPhillips Refinery. We're adjacent to the Harbor
11 freeway, the 110 freeway. And living in an area where we
12 have a major problem with cumulative impacts. We have the
13 Port of Los Angeles, Port of Long Beach, five major oil
14 refineries. We have the Alameda Corridor, the 710
15 Freeway, the 110 freeway. I mean we're sandwiched between
16 many different sources of pollution, really toxic sources
17 of pollution.

18 My childhood experiences have just been dealing
19 with a lot of that exposure from companies, refineries
20 blowing up, chemical spills, and so forth. So I think the
21 problem is there, and has been there for a long time, and
22 I think -- you know, we are making strong efforts to
23 address a lot of those issues. But I think -- you know,
24 our community's the one that's suffering. You know, the
25 community has been suffering for many years. And, you

1 know, it's time now that we start taking action on a lot
2 of these things we're talking about.

3 A lot of it, it sounds good on paper, but we need
4 guys start going out there going door to door and start,
5 you know, addressing a lot of the problems that are in the
6 community, because there's a lot of people that are sick,
7 there's a lot of people with cancer. And the problem just
8 keeps on growing, you know. There's an estimated number
9 that the port is going to increase, tripling capacity in
10 less than 10 years. And that's a major problem, because,
11 you know, that's just one of the major problems that we
12 have in our community. You know, not talking about also
13 the other sources of pollution, but we have, you know,
14 auto body shops, we have, you know, recycling facilities
15 and so forth.

16 So, you know, there's a lot of things that need
17 to be talked about. I mean I think now it's a good
18 opportunity to start going out there to the community,
19 starting getting to address a lot of the problems. And I
20 think, you know, we are making, you know, efforts. But I
21 think, you know, those efforts should have been done 20
22 years ago, you know, to stop the problems. And I think --
23 you know, we're tired of it, we're tired of our community
24 being the guinea pigs for industry, you know. And they're
25 talking about, you know, the language. I mean, the

1 language is going to be there and it's going to change and
2 whatnot. But, you know, the real action needs to be out
3 there in the community. We need to start going out there
4 and talking about all the problems.

5 I support the CEJAC definition of cumulative
6 impact. And I encourage everybody to get more involved
7 and to start going out to the communities. And, you know,
8 we have toxic tours. I mean if you want to see for
9 yourself the problems, you know, just let us know. We'll
10 be more than happy to give you a toxic tour of my
11 community.

12 Thank you for giving this opportunity to speak.
13 And I encourage you guys to keep moving forward.

14 Thank you.

15 CAL/EPA UNDERSECRETARY BRANHAM: Thank you, Jesus.

16 Elvia Hernandez, followed by Fernando Rejon.

17 MS. HERNANDEZ: I just want to say -- is this
18 working?

19 If you really want to -- I'm sorry. Let me
20 present myself. I'm Elvia Hernandez from Pacoima
21 Beautiful.

22 And we have also a lot of problems in my
23 community. But the thing is that if you are really saying
24 that you want public participation or grassroots
25 organization participation comments, so that's what we

1 want.

2 We want you to protect us as a community. If you
3 are going to say that industry people, they are not
4 going -- they are going to feel like uncomfortable or they
5 can't live with that, so why are you guys using our time?
6 Because we have a lot of work to do in our community. And
7 if you're inviting us to comment, that's what we want,
8 we're demanding. Protect us. Protect our community, our
9 treasure. We're the ones that are living in our
10 communities, that are suffering. And if you really want
11 us to say like -- I mean you really want to do something
12 about it, you can do it. But if you're just playing us
13 around, so you're going to do whatever you want to do.

14 But we're going to keep going and we're going to
15 get our rights, because it's our human rights to have a
16 safe environment. And we don't have it.

17 And also, the lady from industry says -- I don't
18 remember now the title. But it's like we're -- they're
19 not going to give any permits. It's because they close
20 themselves off from those in our communities because the type of
21 business they have. Because as another people say that
22 there is a way to doing things. They just need to work a
23 little bit harder. But we need each other. And if they
24 really want to work with us, I mean we can figure out the
25 ways to do it. But if they are just like in their

1 position and not ours, we're going to stay here in this --
2 in our position because that's a community need.

3 Thank you.

4 (Applause.)

5 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

6 Fernando Rejon, followed by Renee Pinel.

7 I'm sorry. Catherine.

8 ARB EXECUTIVE OFFICER WITHERSPOON: I just had a
9 suggestion that I wanted to put on the table for people to
10 think about, as witnesses are coming up to speak, in a way
11 of reconciling the original staff definition with the
12 CEJAC proposed definition from yesterday, so that this --
13 the Interagency Working Group's not forced to choose
14 between them. And the proposal that I would suggest is
15 that when we as BDOs evaluate cumulative effects, we
16 report both those that are quantifiable and then those
17 that are not, and that they're in two different
18 categories. And so we're able -- where there are risk
19 values and we're able to produce that analysis, we do
20 that; and where there are substances we're concerned about
21 or socioeconomic factors we're concerned about, that we
22 also record that they're present, and then let decision
23 makers make of them what they will as they move to the
24 next phase.

25 I think the business community is afraid that

1 having them in the definition imputes more weight to them
2 than they deserve. And the environmental community's
3 concerned that if they're omitted, that they're
4 disregarded altogether. And so I think having them both
5 present, but clearly distinguished from one another, is
6 one way to reconcile the information. And I, for one,
7 would like to be able to circle back -- when health
8 evidence does emerge that shows a strong link between, you
9 know, one kind of -- degree of health coverage or degree
10 of nutrition or degree of school absenteeism and it's tied
11 to a specific health effect, to go back and say, "Did we
12 see that when we were in commerce?" "Did we see that when
13 we were in Barrio Logan?" And if we record it as we go,
14 then we'll have an opportunity to go back and see what the
15 weight of it is as medical science advances.

16 So that's just something to put on the floor for
17 our consideration later.

18 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,
19 Catherine.

20 MR. REJON: Good morning. My name's Fernando
21 Rejon, and I work for Pacoima Beautiful.

22 At these meetings a lot of times it seems like
23 you're arguing over like the definition, like the rhetoric
24 behind the definition. And what it seems like when I hear
25 the business community speaking is the creation -- trying

1 to create loopholes in the wording. So it's like when
2 being very specific on, "Okay, we want to change 'and' and
3 'on'" and this and that, I think it's more for it to
4 create loopholes through the law to allow more wiggle room
5 for these businesses to pollute our communities and poison
6 us.

7 One of the things I heard earlier about putting
8 socioeconomic and it has to be based on sound science and
9 this and that, objectivity, there really is no objectivity
10 in science. There's really nothing that's non-bias
11 because there's always a bias in something. So there is a
12 bias that -- in a lot of communities of color there are
13 environmental injustices in our communities and they do
14 exist. That's definitely not objective. That is
15 subjective. And it has to do with socioeconomics and it
16 has to do with race, environmental racism.

17 So what we're saying is -- one of the things that
18 was brought up was that the labor force -- if there's no
19 jobs in the community, then people aren't going to have
20 benefits. Well, that's kind of what we're going through
21 right now. On a Super Fund site called Price Pfister in
22 Pacoima, which is heavily polluted, they want to build a
23 Lowe's. And so the business community's coming around
24 saying, "Well, we want jobs, we want jobs in our
25 community." And the community residents say, "Yeah, we

1 need jobs. We don't have any jobs in our community." But
2 then we go out there and we ask the residents, "Okay, do
3 you want jobs or do you want people to continue dying?
4 You make your choice." And the Community's like, "Well,
5 you know what, let's stop from dying in our community and
6 then we can bring in the jobs." And so that's kind of
7 like where we're coming at, you know what I mean.

8 So it's like when they want to keep socioeconomic
9 factors, factors of race out of these definitions, that's
10 really not too objective, because the subjectivity of
11 these polluters poisoning us in our community, it's -- the
12 science cannot -- you know, science will refuse to prove
13 that, and the burden of proof comes on us.

14 So one of the things that with cumulative impacts
15 is that -- in Pacoima -- particularly in Pacoima because
16 that's where we work. But this all over L.A., all over
17 country, all over the world. We're surround by two --
18 it's a three square mile area, over 98,000 people. We
19 have an airport -- white man airport in the middle of the
20 community. We have like five toxic sites -- I mean Super
21 Fund sites -- documented Super Fund sites, a landfill,
22 diesel trucks idling across the street from community, a
23 bunch of lead -- it's a lead hot zones. So it's like how
24 could we deal with this -- these cumulative impacts and --
25 people are saying, "Oh, well, it doesn't affect the

1 community, it doesn't affect the residents." But we have
2 all these things going on around us that -- people are
3 getting headaches, people -- you know, all these
4 illnesses, it's like how do we get all of you to
5 understand that, how do we get all of you to understand --
6 and Jesus brought it up. You know, come to L.A. and we'll
7 do toxic tours with other EJ groups in L.A., and you can
8 see it, because -- like, I don't know, I was thinking
9 about bringing a bowl of lead chips and passing them
10 around just so you can see them. Because that's the
11 reality. That's the reality. And no one's going to eat
12 them. You might not even want to touch them because
13 people are going to get sick. But we have young people
14 that are dying because of this.

15 So I don't know how else to explain it to you or,
16 you know -- or like what you represent, because it's like
17 Environmental Protection Agency, we have to come to you to
18 protect us. And the truth, you're not protecting us. We
19 don't feel protected. We're not safe.

20 What are we supposed to do in our communities?
21 And we have to come here to ask you to protect us. We
22 have to bring, you know, all these community people out
23 here. You could hear us talk, you can hear us complain.
24 And, "Oh, great, we've got to hear these people complain."
25 But, you know, that's the hard reality. If I was in your

1 position, I'd feel some responsibility, I'd feel some
2 responsibility for the people that are dying. Do we have
3 to bring the body bags in here? Do we have to bring the
4 children to have an asthma attack right here in the
5 middle? Like you got to think about that, like don't take
6 it lightly. It's a responsibility. Like a lot of times
7 every day we've got to wake up and look in the mirror and
8 say what we represent and what we're really doing. And so
9 that's something that -- that's something that we all need
10 to take into consideration.

11 So thank you for your time.

12 (Applause.)

13 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

14 Renee Pinel, followed by David Arrieta.

15 MS. PINEL: Yes, Renee Pinel on behalf of the
16 Western Plant Health Association.

17 Like CCEEB, we support the February 4th draft
18 from the Cal EPA staff. We think that definition
19 encompasses the goal and the scope of what a cumulative
20 impacts definition should be. The combination of
21 emissions, discharges and exposures I think encompasses
22 what -- everything that -- the totality of what should be
23 looked at and the goal that it is to look at the impact on
24 human health and the environment.

25 We are also opposed to the inclusion at this time

1 of socioeconomic factors. We don't think the science is
2 out there to evaluate it. We believe Cal EPA has a firm
3 commitment towards using sound science, peer-reviewed
4 science. And we don't think that taking -- trying to
5 consider qualitative information in combination with
6 quantitative information is possible at this time.

7 We think if you really want to find out what the
8 key threats to a community is and impact them, that that
9 is based off of science. We don't believe that science is
10 only based at protecting industry and doesn't take into
11 account sensitive populations. I think part of perhaps --
12 this is probably part of the public participation process.
13 But perhaps a firm part of this program should be the
14 development of that common language to make sure that
15 everybody in communities truly understands what's involved
16 so they can then -- so that everyone can evaluate clearly
17 what science is. But at this time we think that Cal EPA
18 needs to stay with sound science that has been
19 peer-reviewed in consideration of multi-media cumulative
20 impacts.

21 CAL/EPA UNDERSECRETARY BRANHAM: Thank you, Renee.

22 David Arrieta, followed by Penny Newman.

23 MR. ARRIETA: Good morning. My name is David
24 Arrieta. I am one of the members of the EJ Stakeholders
25 Committee.

1 And I would like to support the definition
2 recommended by staff on February 4th as the appropriate
3 way to move forward. I think the issue of the
4 information -- and that was a lot of the discussion
5 yesterday, was how do you accept and use information that
6 is out there? And I don't think the business community is
7 necessarily afraid of information. It's how the
8 information is used, is the key issue, and how the
9 evaluation is conducted that is the main problem.

10 So the concept that Catherine put out is kind of
11 interesting and might be worth looking into, as to how do
12 you accept and use the information absent the science and
13 the real ability to evaluate it. Because I think one of
14 the questions that was asked earlier was: How do you
15 assess exposures in and of themselves? And that is a
16 difficult question, because exposures in and of themselves
17 may or may not be causing health problems. And you need
18 to have the ability to deal with those exposures from an
19 analytical perspective so you can evaluate it and make
20 decisions on them based on some sort of evaluation. And
21 if you're just going to accept numbers, you're not
22 accomplishing anything.

23 So I kind of like Catherine's concept. I'd like
24 to see it better developed. But accepting all the
25 information is important. I think it's important to the

1 community and it should be available to the decision
2 makers. It's just how do you use it that makes a
3 difference.

4 Thank you.

5 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

6 Penny Newman, followed by Cynthia Babich.

7 MS. NEWMAN: I'm Penny Newman with the Center for
8 Community Action and Environmental Justice in the
9 Riverside/San Bernardino area.

10 We support the definition that CEJAC has put
11 together, for a number of reasons. In hearing the
12 discussions about exposures and then unless you can link
13 them to a health impact, then they don't count, I think is
14 really a disservice to the communities. In most of these
15 instances when you have discharges and emissions going
16 into that community, they are not supposed to be there.
17 It's certainly my experience with the Stringfellow site
18 and other Super Fund sites and other factories that have
19 had accidental releases and/or deliberate releases.
20 You're assuming that that community should put up with
21 that.

22 Those emissions are not supposed be in those
23 communities. People are not supposed to have rocket fuel
24 in their drinking water. And I think that comes down to a
25 basic premise that we're going to. We shouldn't have to

1 sit and study a community and count how many people get
2 sick, how many people die before we take action. That is
3 the basic premise that we're talking about.

4 (Applause.)

5 MS. NEWMAN: The old way of doing it, of relying
6 on quantitative risk assessments with all of its
7 fallacies, has not protected these communities.
8 Environmental justice is focused on these communities that
9 are putting up with these exposures, putting up with the
10 health impacts in a disproportionate way from everyone
11 else.

12 We're not talking about everybody in the United
13 States having to go through an analysis here. We're
14 talking about environmental justice communities. And
15 there's a definition to that. And if you look, if you're
16 concerned about putting in socioeconomic factors in your
17 definition, look at what you're proposing in your pilot
18 programs.

19 You have at the top of your list, if you want to
20 pull out your analysis there of your pilot projects, a
21 socioeconomic description of that community. How do you
22 discuss environmental justice and you don't include the
23 socioeconomic factors? I find that absolutely ludicrous.

24 When we're talking about science, we agree, there
25 should be sound science. But science is not just chemical

1 science. It's not just analytical data numbers, counting
2 how many particles are in the air or the water and the
3 land. There's also social science. Social science -- as
4 a speech pathologist in my background, neuropathology, we
5 do science as well. And our analysis has linked, you
6 know, health impact to poverty. It has linked the factor
7 of people not being able to have health care to the fact
8 that their problems are exacerbated. There is science
9 there. It's a different science than maybe some of the
10 chemical companies are familiar with, but it's there.

11 When you have poverty and you have people who
12 have to live in older homes, you're going to find lead.
13 That is part of the thing. That is an exposure. And it's
14 due to the fact that these are lower income, older homes
15 in which people are living.

16 When you look at -- a comment that Cindy had made
17 about they don't want any speculation taking place. And I
18 have to tell you that we have speculation taking place in
19 the siting of facilities all the time. They put in to
20 their environmental impact reports numbers that don't have
21 any validity.

22 In our community, when we're talking about
23 warehouses, 71 warehouses in a small rural community,
24 they're done on speculation. They don't even know what
25 business is going in there. And, yet, they project how

1 many jobs they're going to create for our community, with
2 no background to it. They project how many few trucks are
3 going to go in there without knowing if it's a long-term
4 storage or a short-term storage. So there's speculation
5 that takes place all the time.

6 In going with environmental justice we have to
7 start using that speculation to protect people instead of
8 pollute people.

9 Thanks.

10 (Applause.)

11 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

12 Cynthia Babich, followed by Bruce Magnani.

13 MS. BABICH: My name is Cynthia Babich and I'm
14 the Director of the Del Amo Action Committee. It's an
15 environmental justice action group in the unincorporated
16 L.A. County strip. And we were formed about ten years ago
17 to address health concerns that we saw that were happening
18 in our community.

19 I like to think that when I chose to move into my
20 community that I did a really good job of checking out the
21 situation before I moved into it. And my husband and I
22 went there on the weekend to make sure there was adequate
23 parking and that there weren't too many people concerned
24 about the length of grass in your yard and, you know, your
25 parking situations and that we could have animals and

1 things of that nature. And we were really delighted that
2 we happened to move into an area where there were several
3 large fields. Any of you who've been into L.A., and most
4 of you who live in Sacramento probably have little inside
5 jokes about the sprawl that we have going on down there.

6 Little did I know that any area that hasn't been
7 developed in that area is probably the reason for it. So
8 after starting to have several illnesses, I noticed the
9 first one was bloody noses, I noticed the trash can in our
10 bathroom was filled with tissues that I had been using.
11 But also I noticed there were some that I hadn't. And I
12 asked my husband, "Has your nose been bleeding?" And he
13 said, "Yeah, it's been bleeding for about two weeks." So
14 I started taking note of it. And then the stomach
15 problems started happening.

16 Then I started going out and talking to my
17 neighbors. And I was getting looks from my neighbors like
18 I'd been peeking in their windows into their most intimate
19 problems. And we found out that this is something that
20 was commonly happening, these bloody noses, rashes,
21 asthma, joint pains in little children, things that just
22 shouldn't really be happening.

23 And then I made a couple phone calls and I found
24 out that indeed I had moved into a community that had not
25 only one Super Fund site, but two.

1 I started reading. I have a GED. I don't have a
2 Ph.D. I don't need a Ph.D. I'm not ignorant. I get it.
3 And I've been reading. And I've been participating in
4 every venue that I can, and I appreciate the opportunity
5 to participate here today.

6 I just spent four years at the Community Tribal
7 Subcommittee with the CDC and the Agency for Toxic
8 Substances Disease Registry. In that four years I spent a
9 lot of time reviewing guidance documents, implementation
10 plans for toxicology curriculums that communities can use
11 as tools to get to the root of some of these problems, as
12 well as many other documents on cumulative impacts.

13 I watched time after time these documents be
14 shelved. This information is not getting out to our
15 communities. I've overviewed peer-review policies on
16 scientific credible data supposedly that's come out. And
17 you can have arguments on both sides, and they can go on
18 for years and years.

19 But the real situation that we have in our
20 communities is that there are communities that have been
21 targeted. And any of you that don't think so, you really
22 do need to take one of these tours. And you might want to
23 bring a respirator along. Because when Terry came to our
24 community, he got sick. And I told people they probably
25 would. It's a very nauseating experience. People were

1 sick to their stomachs. You get headaches.

2 These are things that we have to live with. We
3 are not being unreasonable.

4 I, like some of my other colleagues, like to
5 think that we are business friendly. But there's certain
6 businesses that can come in and certain that can't. And
7 when you have these areas saturated, it's like putting on
8 a dust mask what you're in a vapor area. And pretty soon
9 it become so saturated, there is no help.

10 So we will continue to come and try and help
11 grapple with some of these hard issues. But we really
12 need this language that we worked so hard on yesterday.
13 It was very contentious.

14 It's not all about making money. Anybody who's
15 been critically ill in their time knows that they would
16 give it all away and not have a penny in their pocket if
17 they could just feel good and know that they had a future.

18 If I had children, I don't even know. I think
19 you'd have to lock me up, because I would be so upset that
20 somebody's attacking my children. You know, it's one
21 thing to do it to me. It's one thing to do it to those.
22 We're carrying our body burdens. I have them. One of our
23 site contaminants is DDT. I have it. I'm stuck with it.
24 Thank God, I don't have to grapple with the decision to
25 breast feed or not.

1 But when I see what we're doing to our kids, when
2 there's things that we can do in the interim -- we can
3 stop the cycle. There's children in our community being
4 born with hypospadia. Do I have to go get a Ph.D so that
5 I can go and explain to people the risks to the pregnant
6 women that are going on? It's not all about weighting the
7 balances between jobs and whether you're going to have a
8 safe environment to live in.

9 So, yeah, I'm mad. Every time I hear Cindy Tuck
10 talk, I swear to God you should have some restraints on
11 hand, because I don't want people to feel threatened by
12 our presence or mine. But you know what, this is not
13 nice. It's not nice to sit here and argue over what's
14 serious and what's not serious. The issues are there. We
15 are our experts in our own communities. We come here, not
16 only asking you to help, but asking you to be educated and
17 to listen to what's really going on. We don't hold it
18 against you that maybe you grew up in an environment where
19 you didn't have some of these hardships. We're just here
20 to try and help.

21 So I wholeheartedly support this definition, not
22 the one on the wall and not the one that some of the
23 business people, who I'm sure -- I've met business people
24 that don't share these opinions, that come to the table,
25 they're ready to do things. I've been learning about air

1 scrubbers and, oh, my gosh, all kinds of things. The
2 options are out there if you just want to cut your profit
3 margin a little bit.

4 So while we're looking at how we're going to
5 address cumulative impacts and cumulative risks, I think
6 what we need to do is highlight the preventing, reducing
7 and eliminating of these impacts in these saturated
8 communities.

9 (Applause.)

10 MS. BABICH: And we need to do this with new eyes
11 and methods. Some of us have been reading books on
12 options assessments by Mary O'Brien, which lays out a
13 whole plethora of options, not just this risk assessment
14 option where these assumptions are put in and these
15 mathematical equations that boggle the mind. We know it's
16 just a trick. It's a trick to make us think that we're
17 not competent enough to understand what's going on. It's
18 not right and it's not something we're going to stand for.

19 We need to look at the bigger picture and we need
20 to deal with the problems. And you need to listen to us.

21 So I'm sorry if I came off a little bit angry.
22 But, you know, I have a dog now that I'm spending \$3,000
23 on so far. And maybe some people would say you should put
24 the animal to sleep. But this is because he was exposed
25 to these DDT pesticides when he was a puppy in the

1 community. I've read the tox profile on DDT, and I focus
2 on DDT because that's the chemical I know the most. But
3 don't be confused that I don't understand what else is out
4 there.

5 So these things are going on in our animals.
6 These are things that are going on in our people. And,
7 yeah, the body bags are lining up. And we know one in
8 four die of cancer. But isn't it a coincidence that that
9 number jumped up when the industrial revolution started?

10 Thank you.

11 (Applause.)

12 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

13 Bruce Magnani, followed by Laurie Nelson.

14 EJ ADVISORY COMMITTEE MEMBER MAGNANI: Thank you,
15 Undersecretary Branham. And hi, IWG Committee members.
16 My name's Bruce Magnani. I'm with the California Chamber
17 of Commerce. And I am an Advisory Committee member.

18 It's unfortunate that we're here today in
19 discussing that we couldn't come to an agreement
20 yesterday. And I think some of that had to do with the
21 time constraints. And it was a very contentious and open
22 debate yesterday, and a lot of valid arguments were
23 presented to all of the Committee members. And I think it
24 was very useful. And I think if potentially there was
25 more time given, that some compromise position could have

1 been reached.

2 Unfortunately in the time constraints that we
3 had, we have two different opinions. We have a Committee
4 opinion and we have a minority opinion, of which I agree
5 with Cynthia Tuck on. And, that is, that I believe staff
6 did laudable work in developing their recommended
7 definition. And the proposal by Catherine I think is
8 again laudable. But the concern is that: Is there a
9 susceptibility -- a relationship to the effect and
10 susceptibility? And if there is, I think the staff
11 recommendation allows for that. And I think if you read
12 their paragraph in their narrative, that it opens the door
13 when there is that type of socioeconomic factor or
14 sensitive population factor that has some quantifiable
15 number or some causal relationship that they allow for
16 that type of reporting and that type of study to go
17 forward.

18 So our position is we support the original staff
19 recommendation for the definition and the underlying
20 reasons for it.

21 So thank you very much.

22 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

23 Laurie Nelson, followed Dr. Henry Clark.

24 MS. NELSON: Mr. Undersecretary and members of
25 the Committee. Laurie Nelson representing the Consumer

1 Specialty Products Association. We're about 240 companies
2 of consumer products used in homes, hospitals, schools and
3 institutions for their care and cleaning.

4 We have the same two concerns. One is on the
5 exposures where there's no quantity or quality. It's just
6 exposures. So we'd like to see that expanded a little
7 bit.

8 And then relative to the socioeconomic factors.
9 And I want to give just a couple of examples. We have a
10 real concern there, because what are the parameters when
11 you start going down the socioeconomic road, given that we
12 have rather limited resources? These are factors that are
13 critical to human health.

14 One example would be obesity, where you have 60
15 percent of the population that is overweight. It's linked
16 to about a dozen cancers, asthma, heart disease, lung
17 disease, et cetera. Breast cancer increases by 50
18 percent. That's one example of a socioeconomic factor.

19 Another would be smoking, which might be a
20 self-chosen behavior, which also affects lung cancer and
21 that sort of thing.

22 So our concern on the socioeconomic factors is
23 where do you draw the line. And I think environmental
24 justice is a very important part of social justice, but
25 it's not all of social justice. We can't solve all of

1 those problems with this program. And we'd like to have a
2 focus of the resources on cleaning up the pollution and
3 the disproportionate impact affecting these communities.

4 Thank you.

5 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

6 Dr. Clark, followed by Lenore Volturno.

7 EJ ADVISORY COMMITTEE MEMBER CLARK: Thank you.

8 Dr. Henry Clark, representing the West County Toxics
9 Coalition. Also a member of the Environmental Justice
10 Advisory Committee that met yesterday.

11 And I'm here to support our Committee's
12 recommendation, which includes the consideration of
13 sensitive populations and socioeconomic factors in the
14 definition. And some of the other speakers have indicated
15 the consideration of socioeconomic factors is key to
16 considering environmental justice. What we need to
17 understand is that we're supposed to be here about
18 trying to get to environmental justice. Well, the
19 environmental injustices that our communities have
20 experienced, including my own in north Richmond, meaning
21 the disproportionate impact on our community by polluting
22 facilities, emissions, and the disproportionate health
23 impacts from that, those are socioeconomic factors that
24 have played into the environmental injustice that we have
25 experienced.

1 So if you don't want to take into consideration
2 social and economic factors or racial considerations,
3 sensitive populations, then you're not concerned about
4 environmental justice at all, because that's the basis of
5 the environmental justice in the first place, period. So
6 we need to get that understood.

7 As far as industry's concern about jobs and their
8 concern about if we take into consideration all these
9 socioeconomic factors that no facilities may be permitted
10 in those communities or there may be no expansions, well,
11 you're absolutely correct. It may not be, because of the
12 fact that we are already disproportionately impacted.
13 We've already been burying people. We already have higher
14 rates of asthma and cancer in our community. So why do
15 you want to continue to dump on our community, poor
16 people, black people, Latinos, native Americans, why you
17 want to continue to dump on them?

18 There's more land in this country than just the
19 communities that poor people live in. You're not siting
20 on where the business people live in. Those people like
21 the Chevron-Texaco refinery, they don't live in north
22 Richmond, believe me.

23 (Applause.)

24 And as far as the jobs are concerned, yeah, we
25 would have liked to have some of the jobs, but we have not

1 and still are not getting any of the jobs. Out of a
2 workforce of about 1300 permanent employees at the
3 Chevron-Texaco refinery, only about 5 percent even live in
4 the City of Richmond at all. And those 5 percent do not
5 live in north Richmond, in poor Chester Village, in the
6 communities that are on the front line of the chemical
7 assault, period.

8 And even if we had all the jobs -- jobs are
9 really -- it's not just jobs. It's jobs with dignity.
10 Black people came over here as slaves. We had full
11 employment, but we weren't satisfied with that. So
12 obviously it's more to just having a job. It's jobs with
13 dignity. That's what you need to understand.

14 (Applause.)

15 EJ ADVISORY COMMITTEE MEMBER CLARK: As far as
16 the other issues saying that, well, you can't address the
17 crime issues, you can't address the health issues,
18 disparities in our community or -- if that don't relate.
19 Well, all of those issues relate to the environmental
20 injustices that we receive. I receive calls from people
21 all the time who want to move to Richmond, asking me,
22 "Well, Henry, should we move to this part of Richmond or
23 not? We heard about the pollution problems there. Is it
24 safe to live in these particular communities?" So people
25 are concerned. And if you don't have people that's moving

1 to the communities with some jobs, with some tax base and
2 money to pay for the schools and other services, those
3 communities are going to decline. Those people are not
4 going to want to live in those communities. Investment is
5 going to go down. Education system is going to go down.
6 All of that is going to go down. So it's all affected by
7 those industrial operations in our communities.

8 And the bottom line is this here -- let me
9 conclude. We aren't in our communities. We're here today
10 to work with you because you say that you want to address
11 the environmental injustices in our community and you want
12 to have another -- a brighter day for the future where we
13 go forward in a spirit of cooperation and working with our
14 communities. And we are receptive to that idea because
15 we -- that's why we are participating in the process.
16 Okay. But our patience is running very short, because
17 another thing that you have to understand is that in many
18 cases the agencies and your staff have been rubberstamping
19 these disproportionate impacts that we are experiencing
20 from these companies simply because of the corruption in
21 the political process.

22 And I'm sure you know what I'm talking about, so
23 let's not play dumb this morning.

24 So we want to work with you though, and hopefully
25 you are serious about making some change. But in the

1 final end, like people have said, we've come to you with
2 our issues and concerns and you say set up this process to
3 want to change. We want to work with you to make that
4 happen, but we want to see some results. We don't want to
5 see the continuing same old nonsense where you are
6 bringing us up here and you're saying you're concerned
7 about public participation, yet you hear us and then you
8 go forward and do what you want to do. Or we continue to
9 be the recipient of these polluting facilities, and the
10 companies and others take the money and run and we left
11 with the asthma and the health problem.

12 The bottom line is that we're not going to be
13 accepting that no more in our communities. So we want to
14 work through this process to stop that and make some real
15 environmental justice happen. But if you're not serious
16 about it, believe me, we're going to be active in our
17 communities to stop any operations in our communities that
18 continue to disproportionately impact us by any means
19 necessary, Brother Malcolm X said. And that's the bottom
20 line to that.

21 (Applause.)

22 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

23 Lenore Volturno, and Caroline Farrell on deck.

24 EJ ADVISORY COMMITTEE MEMBER VOLTURNO: Well,
25 it's a little bit difficult to follow those comments, but

1 I'll do my best.

2 I'd like to say good morning and thank you for
3 your time this morning. And I've been watching very
4 closely. And Undersecretary Branham, I can tell that
5 you're paying very close attention. You know, I've met
6 people without souls, and I don't think you're one of
7 them, and that's why I'm very grateful to be here this
8 morning.

9 You know, we did have some discussions yesterday.
10 And, you know, I have to tell you this is my first time --
11 I work for the Pala Band of Mission Indians, and I am now
12 on the Advisory Committee. This is my first time on the
13 Committee. And it's kind of like that dream when you're
14 in college that you wake up and maybe you're in the wrong
15 classroom. That's kind of what happened yesterday. I was
16 like, well, I thought that we were here for the
17 Environmental Justice Subcommittee to make recommendations
18 on environmental justice, which is why the tribe wanted me
19 to be involved in this Committee.

20 You know, we've been fighting the Gregory Canyon
21 landfill for over ten years now. And, you know, we're
22 going to be giving testimony like a lot of the people here
23 if that landfill goes in. And so we're very passionate
24 about what we do and very grateful to have a tribal seat
25 on this Committee.

1 One of the things that the business community --
2 one of the direct concerns I had yesterday about what the
3 business community's concerns were is that they didn't
4 have the ability to make any changes on the language other
5 than the staff recommendation. That's a big concern to
6 us, because, you know, part of environmental justice is
7 taking into consideration all of the public comments.
8 You've heard a lot of public testimony here this morning.
9 You're going to hear a lot more. We heard all of that
10 same public testimony yesterday.

11 It's really difficult to look into the eyes of
12 these people out here and say that we can't change the
13 staff recommendation based on what they have to tell us.

14 And so that was a concern that we had. You know,
15 it's just another way to slow down environmental justice.
16 And so that was one of the direct concerns I had.

17 As far as socioeconomic factors are concerned, I
18 mean that's a huge part of environmental justice. And
19 that's why I thought I was in the wrong room yesterday
20 when they did not want to add that to our definition.

21 You know, I come from a science background. I'm
22 a chemist by training. I've worked in research and
23 development in industry before. I choose not to work
24 there today. I could probably make a lot more money doing
25 that than what I do with the tribe. But the Indian

1 reservation helped me get through college, and I wanted to
2 give my education back to them. You know, and I used to
3 wonder: Why would God put me through this degree in
4 chemistry when I'm not going to use it? And I can see
5 here today, you know, a lot of those reasons.

6 You know, I know about sound science. You know,
7 sound science takes a lot of years and -- you know, a lot
8 of years to develop what you want. And a lot of it
9 depends on who's funding your study. You know, if you ask
10 Phillip Morris to go out and tell you how many people are
11 dying of lung cancer because of smoking, there's going to
12 be a lot of people dying of lung cancer, but I can bet
13 that they're going to tell you not a lot of them are --
14 it's because they're smoking.

15 You know, and that's the same issue that we have
16 here today. These communities, you know, when there's
17 somebody that comes in and does a scientific study to see
18 what the effects of industry is on these communities, it's
19 typically industry that are doing those studies. Those
20 numbers become skewed, you know. And I liked what one of
21 the -- someone from business said, you know, "Well, you
22 know, these are a lot of numbers. And we really don't
23 need to be" -- "you know, we're not just going to accept
24 numbers." Well, I agree with that. You know, you should
25 not just accept numbers. I think that what people are

1 experiencing in these communities is much more serious
2 than the numbers.

3 You know, you can go out to these communities
4 and -- you know, we had testimony yesterday about people
5 who are dying from lung cancer who never even smoked, you
6 know. So, you know, the fact that people are dying isn't,
7 you know, necessarily going to be attached to a scientific
8 study because, as we all know, you know, science studies
9 are done in triplicates, you throw out numbers you don't
10 want, you make the numbers that you want. I've worked in
11 science. I've seen it happen. I've seen, you know,
12 animal tests go wrong and, "Well, how can we hide this?
13 How can we still get this drug on the market? We need to
14 make money."

15 You know, in these communities it doesn't do them
16 any good to have jobs when all of their people are dying
17 or in the hospital. You know, I think the State of
18 California with the state of health insurance can surely
19 agree that they don't want to pay millions of dollars for
20 health care for all of these people who are getting sick
21 in these communities. Why isn't the business industry
22 taking responsibility for that?

23 You know, I live -- or I've been taken in, as I
24 mentioned, by the indian reservation. And one of the
25 things that we look at is that -- you know, our community

1 is the people who live there are all family. And so any
2 business that goes in, there's an assessment that goes
3 along with that. You know, you have to think about this
4 is the future of your family. You know, and indian
5 reservations for many years had people coming to them with
6 toxic industries. "We will put this industry on your
7 reservation. You will make a lot of money." And the
8 majority of them said, "No, it's not worth the money to
9 bring in these toxic industries." And what we're asking
10 for on this Committee is that these businesses that want
11 to have business in these communities treat those
12 communities as if they're family. You know, would they
13 make their own family or children sick? Would they be
14 comfortable drinking the water where their own businesses
15 are? You know, those are the things that matter.

16 And I would be happy to, you know, set up a tour
17 for all of the Environmental Justice Committee. I would
18 be happy to take the lead on that and help fund part of
19 that, so that the people in this room who are making all
20 of these comments could go to these communities and see
21 what's going on out there. You know, and bring their
22 children. You know, are they going to bring their
23 children and have them drink the water from the tap? I'd
24 like to see that happen, you know. Because I don't know
25 that I would. So I want to go out to these communities.

1 And I think that part of environmental justice is really
2 being able to see what we're talking about.

3 And right now, you know, for a lot of us in here
4 these are words on a screen. But for these people who are
5 here today who come here from hundreds of miles away to
6 give public testimony, you know, I think we owe it to
7 them, you know, to get out into those communities and make
8 an educated decision. That's one thing that science is
9 about, is you make a hypothesis and then you do an
10 experiment and then you see whether or not your hypothesis
11 was correct.

12 And I think that right now in the form of this
13 Committee we're at the hypothesis level. You know, we all
14 have a lot of ideas about, you know, what's out there and
15 what's going to work. But I believe until we actually
16 collect the data, which in this case isn't necessarily
17 numbers, it's getting a grasp on what's really going on in
18 these communities. And I think we need to get out there
19 and make a realistic decision when it comes to
20 environmental justice.

21 And, you know, as I mentioned, I'm very grateful
22 to be on this Committee. I hope that a lot of changes
23 happen. I hope that you can understand what a lot of
24 these people are going through.

25 You know, our own Governor and his family came to

1 this country for the American dream. And why should any
2 of the people sitting in this room not have that same
3 opportunity?

4 Thank you.

5 (Applause.)

6 CAL/EPA UNDERSECRETARY BRANHAM: Thank you,
7 Lenore.

8 Caroline Farrell, followed by Martha Arguello.

9 MS. FARRELL: Good morning, members of the
10 Committee. My name's Caroline Farrell. I'm with the
11 Center on Race, Poverty and the Environment. We represent
12 low income communities and communities of color and role
13 communities in the Central Valley. My office is in
14 Delano.

15 And I just wanted to follow up on some comments
16 that have been much more eloquently expressed than what I
17 can do.

18 But we definitely support the definition that was
19 developed yesterday. And it seems to me like you're being
20 given a choice today between a definition that was
21 endorsed by your Advisory Committee and was opposed
22 largely by the business community. And so the definition
23 you choose is really going to reflect how this
24 environmental justice project is going to be carried out,
25 whether or not you're listening to the community or

1 whether or not you're listening to business.

2 Now, you have to listen to both. I mean that's
3 understandable. But what is the crux, what is the basis
4 of your definitions going to be?

5 And it's going to affect a lot on the legitimacy
6 of your environmental justice program who you're going to
7 give more weight to. And I think it's going to be very
8 important that you consider the divergent views and
9 recognize that they are coming from two entirely different
10 camps: One that's looking for actual concrete results in
11 their communities and one that's not so interested in
12 that, for a variety of reasons.

13 But it's going to underpin your -- the very
14 foundation of your program is going to have to decide
15 between these two divergent views. And the outcome is
16 going to be largely a result of that foundation.

17 I want to talk also a little bit about peer
18 review and sound science and life choices. These are
19 supposedly neutral terms. But access to sound science,
20 supposedly, or peer-reviewed science is very limited for
21 the communities that I work with. They don't have the
22 resources to conduct their own peer-reviewed scientific
23 studies. They don't have resources to hire experts to
24 evaluate others' studies or risk assessments. And when
25 they are able to go out and try and find scientists to do

1 this, there's a limited pool that's willing to do it for
2 community-based organizations. And those are in very high
3 demand.

4 So you're dealing with limited resources, limited
5 time. You're also dealing with a potential for conflict
6 of interest. The pool is small. Often they take on
7 clients who can pay them a full salary, a full -- a fee in
8 order to do community-based research at a reduced fee.
9 And sometimes, depending on what project it is, there
10 could be a conflict of interest, which further limits the
11 pool of available science or available opinions for
12 community-based organizations.

13 Their ability to evaluate or produce
14 peer-reviewed science is going to limit their
15 participation in this process. If the information being
16 reviewed is going to be peer reviewed only, if that's the
17 only information given any weight, then you will have very
18 little public participation from community-based
19 organizations.

20 The decisions on how to address or how to analyze
21 or how to name the scope of an environmental impact or
22 cumulative environmental impact is going to be done by
23 industry and by agencies, up here and not down here. And
24 the whole basis of environmental justice is to get the
25 community to help define and find solutions to the

1 problems that they face. And to disregard community
2 expertise as speculation is very -- that's a very
3 value-based determination. It's sort of saying, "Well,
4 science is the truth. And what you're experiencing is
5 speculation." And speculation doesn't have any weight.
6 And I think that is really -- it's not a good way to get
7 off an environmental justice program, I don't think.

8 And so I think it's very important that when
9 you're discussing these definitions and when you're
10 discussing the types of evidence of these impacts to
11 include in your analysis, this is just what is going to be
12 analyzed. This has no bearing on what the actual outcome
13 or action is going to be taken. This is just information.
14 And, you know, when you start limiting the information
15 that can be evaluated, you're also limiting any potential
16 action that may be the outcome. So I think it's very
17 important to think about what language is being used as
18 well as what the effect of that language is going to be,
19 because it's going to have real-world consequences.

20 And if your analysis does not comport with the
21 community's understanding of its own situation, you're
22 analysis will have no legitimacy with the community. And
23 government cannot come in and tell people, "Well, you
24 don't have a problem," when all they're feeling is a
25 problem. They're not going to believe you. And they're

1 not going to change their assessment of their situation
2 because you tell them, "Well, the risk assessment exposure
3 is below the number that we've assigned to determine this
4 impact." It's not going to work. And this program is not
5 going to have I think the effect that is attended by the
6 Legislature, by Cal EPA and by all the member agencies.
7 And so I'd just like to leave you with those comments.

8 Thank you.

9 (Applause.)

10 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

11 Martha Arguello, followed by Diane Takvorian.

12 MS. ARGUELLO: Good morning. My name is Martha
13 Arguello. I am an alternate on the Committee and I work
14 for Physicians for Social Responsibility.

15 What I'm always struck by when I come to these
16 meetings is the extreme violation of the public trust that
17 we hear in the stories of everyone that comes here at the
18 same time, despite the -- the things that people live in
19 their communities that everyday tell them that we have
20 failed to protect them as a government, the extreme faith
21 that they still have that somehow if you go to their
22 community, if you just take this tour, "if you come see
23 how we live everyday, you'll change what you do." I'm
24 beginning to lose faith that you have that ability or the
25 intent to actually do that.

1 Because we have choice right now. We can
2 continue to protect businesses that pollute and poison
3 communities. Or we can have a regulatory structure that
4 says, "It's not how much we can allow, how much risk
5 communities did bare and how much profit I can make, but
6 how much harm I can prevent and how I can restore
7 communities."

8 If you make communities ugly -- and, I'm sorry, a
9 refinery is ugly, a polyvinyl chloride facility is ugly,
10 you know, intermodal facilities are ugly. And the spread
11 of that ugliness threads through that entire community.
12 And so when we talk about the socioeconomic status and
13 then not to include that, as a health educator who works
14 with 2,000 doctors within our organization, has spent the
15 last 30 years working in improving access to health care,
16 we know that the health of a community is complex and it
17 is, you know, economics. And we know that health and
18 health outcomes are color and income coded in this
19 country. To ignore those again is to ignore the real
20 lives of communities. So that we have to do better.

21 And it is not for you to protect existing
22 polluting, unsustainable industries. We expect vision
23 from you. If we're going to invest the time to come here
24 and keep telling you our stories, it's because we expect
25 you to do things differently. And if it means some

1 creative destruction in terms of the economy, it means
2 that we'll have green industry. So one example of a green
3 chemistry industry that's actually supported by labor is
4 the production of CD ROMs. There is a new green chemistry
5 way to do it that is not as polluting. It's more labor
6 intensive.

7 We can do this. We can do things better and
8 differently and cleaner. But we can't do it unless we
9 have the regulatory tools to do that. And that's part of
10 what this is about. We spent 24 months arguing about
11 this. And we're still arguing about it because there's
12 two things that industry's afraid of: Studying cumulative
13 impacts and actually having you prevent pollution.

14 It's tiring. And we need to settle this and move
15 forward and have -- give you the tools so you can actually
16 prevent disease, prevent prevention -- prevent pollution,
17 and do what you're here to do and that's protect the
18 public trust. We trust you to do this. Despite the fact
19 that we probably shouldn't trust you anymore, we still do.

20 Thank you.

21 (Applause.)

22 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

23 Diane Takvorian, followed by Joe Lyou.

24 EJ ADVISORY COMMITTEE CO-CHAIRPERSON TAKVORIAN:

25 Good morning. My name is Diane Takvorian, and

1 I'm the Executive Director of the Environmental Health
2 Coalition. And we are a 25-year-old environmental justice
3 organization in the San Diego/Tijuana Region.

4 I'm also the Co-Chair of the Environmental
5 Justice Advisory Committee and served as the Co-Chair for
6 the two-years process during which we developed the report
7 and recommendations on environmental justice, which this
8 Committee has endorsed.

9 Yesterday -- and Environmental Health Coalition
10 supports the recommendation from the Advisory Committee.

11 Yesterday we had five hours of what I would
12 consider to be robust discussion of the cumulative impacts
13 definition alone. We had many more hours of discussion on
14 other things. But even in environmental justice terms,
15 five hours discussion on one definition is a lot.

16 So I'm not sure where there were time
17 constraints. No one was restricted from speaking.
18 Everyone had an opportunity to dialogue. I think it was a
19 full discussion and it resulted in a vote of nine people
20 in favor, four people opposed and one abstention. So
21 that's not just environment justice and community
22 organizations. We had the support of some of the
23 government organizations as well.

24 We also had I believe majority support from the
25 public who was testifying yesterday.

1 I'd like to speak to just one of the issues that
2 I think is critically important to be included in the
3 definition, and that is the socioeconomic factors.

4 When we talk about speculation and qualitative
5 data, I think this is diminishing the health disparated
6 data that exists. Environmental Health Coalition is a
7 partner with the National Institutes of Environmental
8 Health Sciences. There is data that links race with
9 disease. There is data, peer-reviewed data that links
10 gender with disease. There is peer-reviewed data that
11 links income with disease and links it to pollution.

12 So the data's there. Whether it's within the
13 confines or the purview of Cal EPA, you need to open it
14 up. You need to open the box and let that data in,
15 because right now you're closing the box and ignoring it.

16 So I think the distinction of this science being
17 qualitative and therefore less than the data that EPA --
18 Cal EPA utilizes is simply wrong. We need to utilize that
19 data. It's there. And we need to quit saying it doesn't
20 exist.

21 Secondly, I think the specter of permit denials
22 is, again, wrong. Environmental justice is about jobs and
23 health. It's about economic opportunity and health. No
24 one says that better than the environmental justice
25 community. And no one that participated and testified in

1 the public did not say that they want economic health for
2 their community. But they don't want to trade. They
3 don't want to be taking their children to the hospital
4 every other week with asthma attacks in order to have a
5 job. People have made that decision.

6 So I think that the recommendation that Catherine
7 Witherspoon made, I think the spirit of what you're saying
8 is in the Advisory Committee recommendation. We did
9 compromise. We did talk about how we can include
10 everything. So I hope that you will view our
11 recommendation as that coming together, that opportunity
12 for us to recognize all of the interests in the room.

13 And, lastly, I just want to say that we need to
14 move forward. We're at a critical junction here. And we
15 need you to face the realities that we face everyday in
16 our communities. The system isn't working. It's not
17 working to look at one chemical at a time. It's not
18 working to look at one facility at a time. In Barrio
19 Logan, thanks to the Air Resources Board, we did look at
20 one facility, but it took every agency at every level of
21 government and a million dollars to end the pollution that
22 was impacting the community from one plating shop.

23 Every community doesn't get that opportunity. We
24 are grateful that we received it. But we've got many more
25 plating shops and others, and everyone else in this room

1 has many other facilities that are killing their
2 communities. So we need your help in that.

3 And, lastly, our leap of faith is to invest our
4 time in this effort to change the current system, to bring
5 health and justice to our communities. But I have to say
6 our patience is frayed. The testimony from our
7 communities that went on for two years that resulted in a
8 cumulative impacts definition in the report is repeated
9 again yesterday and again today. And I have to say that I
10 can't continue to serve if we don't pay attention to this
11 testimony. We need to really listen to what communities
12 are saying. And this definition is guidance for the Cal
13 EPA agency's to adapt to your processes and procedures.
14 It's not a legislative proposal. We want to work
15 together. Everyone here who has come from hundreds of
16 miles away are saying we want to work together. We're not
17 just running to the Legislature and passing a piece of
18 legislation that would require that this happen.

19 But -- and if I can take a page from our
20 Governor -- if we ask the people if they want the state to
21 protect their health from all sources of pollution, my
22 money's on the people. So I have no doubt that we can do
23 that if we can't get some relief from Cal EPA and the
24 agencies here. And I have a lot of hope that you'll do
25 that.

1 Thank you very much.

2 (Applause.)

3 CAL/EPA UNDERSECRETARY BRANHAM: Thanks, Diane.

4 Joe Lyou, followed by LaDonna Williams.

5 EJ ADVISORY COMMITTEE MEMBER LYOU: Hi. Thank
6 you for listening to all this testimony. My name is Joe
7 Lyou. I am the Executive Director of the California
8 Environment Rights Alliance. We work on environmental
9 health and justice policy issues and provide technical
10 assistance to impacted community members.

11 I am and have been a member of the Advisory
12 Committee on Environmental Justice, and went through the
13 two-year process developing the recommendations that have
14 now been attempted to begin implementation through the EJ
15 action plan.

16 I would like to just state first and foremost
17 that I support the language of the cumulative impacts
18 definition that we came to yesterday as a committee. And
19 I would ask you to look at it on its merits. Read it.
20 Just read it. Read it carefully. See if it works for
21 you. Because I think it's a good definition. Is it
22 perfect? No, I think there should be a comma in the
23 middle after "geographic area".

24 (Laughter.)

25 EJ ADVISORY COMMITTEE MEMBER LYOU: But, really,

1 I mean take a look at the definition on its merits and see
2 if that's good enough for you. I would hope that it would
3 be.

4 Before I get into this conversation about
5 socioeconomic factors, I think that the characterization
6 that the impacted communities are against jobs and
7 business is unfair and extreme. I think it's a
8 mischaracterization. These communities are not
9 anti-business. They're anti-pollution. And there's a
10 difference. There's an important difference that you have
11 to recognize between being pro-business and being
12 pro-pollution.

13 When it comes to non-quantifiable factors,
14 socioeconomic factors, I'd like to remind some of the
15 people at this table who know very well that there are
16 quantifiable factors that we are now able to measure, like
17 perchlorate, at levels that we expect to do real serious
18 harm to people that just a few years ago we couldn't
19 measure those. If you don't consider the fact that there
20 may be perchlorate in your water or some other chemical
21 that we might not measure at low enough levels that is the
22 next perchlorate, then you're not considering everything
23 that is necessary to make good decisions. And I know that
24 everyone at this table is trying to make the best decision
25 possible. Don't limit the basis of your decisions by

1 looking only at quantifiable able factors.

2 Another chemical that tends to pose a problem for
3 a different reason is dioxin. Well, we can measure dioxin
4 and we're getting better at it. But it sure costs a whole
5 lot of money and it's sure not done very often. So we
6 don't have the resources to do the measurements that are
7 necessary for dioxin, so we're going to have to take some
8 qualitative analyses of dioxin risk in terms of dioxin
9 emission assessments. We know that. And we're not asking
10 you to spend billions of dollars making dioxin
11 measurements everywhere. Because you're going to have to
12 use some qualitative analysis when it comes to dioxin
13 because it's too expensive to measure for.

14 It's not that it's not a problem. Take a look at
15 the cancer slope factor. I'm sure Dr. Denton is very
16 aware of what the cancer slope factor for dioxin looks
17 like. It's very, very steep.

18 We do know that socioeconomic factors such as
19 lack of access to health care can result in the
20 compounding problems with environmental health impacts.
21 Think about asthma. If you don't have access to asthma
22 medication, you're much more likely to be hospitalized and
23 suffer severe consequences of asthma. Should this be
24 considered in cumulative impacts? Absolutely. Should it
25 be excluded because we haven't quantified it? Absolutely

1 not.

2 Even education about asthma triggers is a
3 socioeconomic factor that should be considered. If you're
4 fortunate enough to be educated about asthma triggers, you
5 can take preventative actions to prevent asthma incidents,
6 asthma hospitalizations, and the costs associated with it.

7 So socioeconomic factors are going to be a key
8 issue of consideration in the definition of cumulative
9 impacts.

10 And just in conclusion -- I know you need to get
11 on to your discussion. But when you're making your
12 decision, please take careful consideration of the
13 community members who have come here today and the
14 sacrifice that they have made to stay here for two days
15 and to present to you what they know about the problems in
16 their communities. I'd like to thank them and just say
17 that it is very encouraging to me to see that they have
18 the dedication to come out here and do this. And I would
19 appreciate if you would show them that same respect by
20 considering their views.

21 Thank you.

22 (Applause.)

23 CAL/EPA UNDERSECRETARY BRANHAM: Thank you, Joe.

24 LaDonna Williams, followed by Jesse Marquez.

25 MS. WILLIAMS: Good morning. My name is LaDonna

1 Williams. I am Director of People for Children's Health
2 and Environmental Justice. I'm also an alternate on the
3 EJ committee.

4 And I come here this morning just hoping that the
5 anger from yesterday had subsided. But it hasn't. And
6 the reason being is that we're spending a whole lot of
7 time here on common sense.

8 It's going to take me a little minute, and I'm
9 going to take it because I've had to sit through all of
10 this, to explain why it is that we keep coming here day
11 after day and spending all of our waking hours addressed
12 in this issue. When I walked in and I saw this proposed
13 language and saw that the socioeconomic part of it was
14 taken out, it's like more of the same. You guys just are
15 not getting it.

16 My community, Midway Village, is a Super Fund
17 site that has been labeled everything but a Super Fund
18 site even though -- it's located in Daly City, California,
19 sitting adjacent to a Pacific Gas & Electric Company.
20 It's been contaminated by PG&E's PNA's PAH's, VOC's,
21 volatile organic compounds, naphthalene, benzene, pyrene.
22 These are words that ten years ago I never even knew
23 existed. But I was forced to learn, research it and begin
24 to understand, because during the ten years that I lived
25 there I never knew I was exposed to this kind of thing. I

1 never knew that our government would allow such a thing to
2 happen to people, but it did.

3 And it continues to happen, as you see testimony
4 after testimony from Midway Village to Willington to
5 Pacoima Beautiful to Richmond to -- wherever you see a
6 majority of minorities living, we've got this common
7 problem going on. And we come to you all thinking that
8 you are working with us to protect the public's health.
9 And as I made the comment yesterday, the EPA actually has
10 the title of environmental Pretending Agency, because
11 there's nothing in their actions or decisions that they
12 are taking that is actually protecting the community.

13 Now, when you -- what I ask of you all when you
14 go back and you decide or make the final decision on this
15 language or public participation or on the pilot projects
16 or whatever, I would ask you all to put you and your
17 families in the communities that we've lived in. And when
18 you've -- when you do that, I want you to imagine burying
19 your mother, as I have done, and then two years later
20 burying your father. And the only reason that I believe
21 or know in my heart that they have died was the fact that
22 they tried to support me when I moved to Midway Village by
23 helping me plant a garden to be self-sustaining. A mother
24 told me, "You've got to get our hands dirty. A little bit
25 of dirt won't kill you. You need to learn how to plant

1 some okra and to tomatoes."

2 And I've said I'm past crying. But when you bury
3 your family and then you begin to realize years later that
4 they didn't have to die at 52 years old and 53 years old,
5 you'd get up here before you all who have the power to
6 make the decision to change it. And I sit there and I
7 look at the indifference on some of the people's faces.
8 Let me say that. Because I'm sure they're tired of
9 hearing these stories. But it's even worse when you bury
10 family members prematurely and you don't have to. And
11 then you discover that it was preventable by agencies who
12 are paid to protect your health and your environment and
13 they haven't done it. And then you're forced to get into
14 this line of business, because that's what it is, only to
15 realize they're playing with your mind. I don't like
16 being played with, and I get angry and I get rebellious,
17 you know. And I try to have an open mind coming here
18 going through the process.

19 But if it doesn't work, then it's put on me to
20 make the change. And I guarantee you, you're not going to
21 like the solutions that our younger generation is coming
22 up with, because they are in the mind set you haven't done
23 it right, you're not trying to do it right, so you're
24 putting it up to us to take over and make it right.

25 Now, I ask that you change that language back and

1 put that socioeconomic in there, because when I look over
2 my life -- and I'm sure it was the same with my
3 neighborhoods -- you know, I had a child at an early age
4 and I moved out at an early age attempting to be
5 self-sustaining. I had a daughter born with brain damage.
6 I had a son born after that who -- both of them had bloody
7 noses, and I mean severe bloody noses, rashes. My
8 daughter had seizures through the whole ten years we lived
9 at the site. Once we moved away she never experienced
10 another seizure. But during that ten years, when I go
11 over her medical records, I spent three to four days out
12 of the month in the hospital. Because not only was the
13 ambulance coming to my house; it was going to my neighbors
14 too.

15 But I was so focused on, you know, trying to keep
16 my daughter alive, my son's bloody noses, I was having
17 illnesses, that -- I had actually enrolled in college at
18 that time too, and I had to drop out because there was no
19 way that I could concentrate, pay attention to my studies,
20 and be running back and forth to the hospital. So of
21 course that affects you socially, economically and
22 everything else.

23 And these chemicals that were spewing from PG&E
24 that at the time we were having the explosions and the
25 burning drums and the smells in the air, we had no idea

1 that this was affecting our health.

2 Now, I happen to be I think probably one of the
3 few that were able even throughout all that -- I moved
4 away. I bought a home, opened up a business, and thought
5 that I had gotten away from it. But as I began to have
6 more children -- because I have six kids -- they also
7 begin to exhibit certain residuals from being contaminated
8 on this site for years. My neighbors are going through
9 the same exact thing later, as we discover. Going back to
10 the community, once I discovered -- when these men in
11 bubble suits appeared, I went back trying to find out what
12 had taken place. Nobody knew nothing. And as you would
13 have it, I don't know where it came -- well, I do know
14 now. It came from God. But I had no idea prior to that
15 where to even begin looking. And I went to the library,
16 which was right across the street from the site.

17 Also on site there's a child care center, two
18 elementary schools and four surrounding it. And they had
19 the nerve to have Midway Village be the local recreation
20 park for the surrounding community.

21 But I went to the library. And, lo and behold, I
22 find that they have to in the library put information on
23 chemicals in the community. And that's where I began to
24 dig. And as I dug and dug and dug, then it became an
25 obsession. I realized that the EPA had known about this

1 community being contaminated way back in 1913, before this
2 community was ever built.

3 And all this information had been there. You've
4 had all this information all of this time, and you still
5 built a low income community of color on top of this. So
6 you can't ignore the fact that there is socioeconomic
7 issues going on as well as all these others.

8 And I implore you all to look into -- if you
9 aren't going to propose this language -- I support the
10 language that the Committee had put together. But I know
11 that it is your job that if you see even what we have
12 implemented doesn't go strong enough or far enough to
13 protect the public, you have an obligation to put in
14 language that goes even further so that our communities
15 will begin to be protected. Because this is not what has
16 been happening. It has not happened. That's why we have
17 environmental justice. That's why we've got this
18 committee. That's why you are sitting here, for
19 environmental justice. It should be environmental racist
20 prevention because that's what has occurred up until now.
21 And the fact that you allow business on this committee to
22 me is wrong, because prior to now it has been the business
23 community running things, along with the blessing from the
24 agencies. So you all go back -- and you've proved it
25 again here by the fact that you're removing this language.

1 And as the guy said before, you're giving them loopholes
2 to come in and be able to continue to do business as
3 usual.

4 Now, I would really like to know here, showing
5 hands. How many of you -- not your staff and not somebody
6 representing you. But how many of you have actually been
7 out to any of these communities that have come before you
8 and complained?

9 (Hands raised.)

10 MS. WILLIAMS: And so you could make this
11 language here knowing that and listening to that, you
12 could change that language and really feel comfortable and
13 go home and sleep well at night?

14 Because we're all here crying to you. We're
15 pleading to you to work with you all to help us. We have
16 been here for years, coming back and forth, going through
17 this process, trying to make a change. And I'd like to
18 know, what is it going to take? I mean we've got to keep
19 coming here? We look at your documents after all this
20 work, and then it tells us that this -- even this action
21 plan is not a solution to the problems in our communities.
22 And I asked Tam yesterday, "Well, if this isn't the
23 solution, then what is?" And I don't think I ever got an
24 answer to that.

25 So what you're telling us is there is no

1 solution, that we have to continue putting up with this
2 injustice. I mean, seriously, I would like to know what
3 is it going to take?

4 ARB EXECUTIVE OFFICER WITHERSPOON: Jim, I think
5 it's important to clarify for everyone in the audience
6 that the Committee has not taken any vote on anything.
7 This is just a repeat of the staff proposal made before.
8 And the Committee will be evaluating -- or the working
9 group, I mean -- be evaluating this definition versus the
10 CEJAC definition versus any other possibility.

11 MS. WILLIAMS: Right. And --

12 ARB EXECUTIVE OFFICER WITHERSPOON: But we're not
13 there yet. And you shouldn't presume, just because this
14 is on the wall, that that's what the working group's going
15 to vote for.

16 MS. WILLIAMS: Right. And I'm not presuming it.
17 I just kind of know the pattern over the years, that --

18 (Applause.)

19 ARB EXECUTIVE OFFICER WITHERSPOON: Have a little
20 faith.

21 MS. WILLIAMS: I have, and that's the problem.
22 That's why I'm here talking about it. Because we have
23 time after time proposed language. We've asked to be
24 included. Not just a show of, you know, public
25 participation and not the nice wording that says, "We will

1 address it. We will consider it." We want to see it
2 used. We want it in the report. Then we will begin to
3 have faith and begin to trust that you all now are really
4 believing that there is a problem out there, and that you
5 all have now changed that mind set that really begins to
6 show that your actions by making these changes will
7 hopefully begin the process of reversing exposures and
8 eliminating, not just reduction of toxins and exposures in
9 our communities, but eliminating it altogether.

10 Thank you.

11 (Applause.)

12 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

13 Jesse Marquez, followed by -- I'm going to
14 probably mess this up -- Mily Trevino Saucedo.

15 MR. MARQUEZ: My name is Jesse Marquez, and I'm
16 Executive Director of the Coalition for a Safe
17 Environment. We're headquartered in Wilmington,
18 California, which you've heard our community brought up
19 many times.

20 I apologize. It just so happens that I live in
21 one of the most polluted cumulative impacted communities
22 on this planet. And as a result I am physically sick four
23 to five months every year. And people that know me know
24 that I'm sick all the time. But yet I come forward to
25 these meetings, to these conferences, to these seminars,

1 to these workshops, to these task force to always plead
2 our community's case.

3 The public that has been here are not here
4 because they have small problems. They have major crisis
5 in their communities. Wilmington is just one of those
6 many.

7 The largest pollution source in southern
8 California is not private industry. It's a government
9 agency called the Port of Los Angeles. The second largest
10 air pollution stationary source in southern California is
11 not private business. It's a government agency, the Port
12 of Long Beach.

13 However, the third largest source is private
14 industry. It's the six oil refineries in Wilmington and
15 bordering Wilmington.

16 And I have a list that I had started last year
17 that lists 38 major industries in Wilmington, which is
18 only five miles square. And I'm not even done making the
19 list, not just the tip of the iceberg of the list.

20 But what do environmental justice communities
21 face? What are we dealing with? Here's what you have to
22 understand:

23 We have the highest death rates in our community.
24 We have the highest cancer rates in our community. We
25 have the highest respiratory problem health rates in our

1 community. We have the largest variety of health
2 illnesses and diseases in our community. We have the
3 highest health care costs in our community. We have the
4 highest rate of lack of health services in our community.
5 We have the highest negative environmental impacts in our
6 communities. And this list goes on and on and on.

7 So we're not talking a short list, because we've
8 documented this list.

9 We cannot say any longer that the ports or a
10 particular business is an economic engine without
11 evaluating all the other impacts.

12 Our communities did go to our elected officials.
13 We did go to our government agencies. And when the harbor
14 communities went to the Port of L.A. and asked them years
15 ago to deal with the air pollution and its impact on the
16 communities, they did absolutely nothing. They laughed at
17 us.

18 But I will tell you what we are doing and what we
19 did do to make change happen. And it didn't happen
20 because any of your agencies volunteered. I almost know
21 for a fact that every one of your agencies was sued by the
22 public or public interest organization, and you all lost
23 in court, forcing you to have to reevaluate and reassess
24 what you were supposed to be doing.

25 But in the case of Wilmington and the San Pedro

1 communities, they sued the Port of Los Angeles, a
2 government agency. And guess what. We lost in court.
3 But the San Pedro community did not give up. They came to
4 Wilmington and said, "Hey, we want to appeal this case."
5 An says, "We'll back you up a hundred percent." And I
6 created my organization four years ago. At that time
7 called the Wilmington Coalition. But now we're
8 represented in ten cities because we have grown now. And
9 we supported that lawsuit and we supported that appeal.
10 And guess what. Three justices unanimously found the Port
11 of Los Angeles and the City of Los Angeles guilty of
12 violating CEQA by failing to prepare an environmental
13 impact report.

14 That's what we did. And no other organization or
15 community on this planet ever stopped a major port
16 project. In this case it was a \$364 million economic
17 engine.

18 But the port still didn't want to face reality.
19 They went 24-7 in construction of this project, hoping it
20 would be done before we got to court. But guess what.
21 These justices listened to us and the public and ordered
22 an injunction. So this project was stopped 80 percent
23 complete.

24 Well, this was only a year and a half ago. But
25 in four years, there have been approximately 15 Port of

1 L.A. and Port of Long Beach expansion projects. And I'm
2 proud to say that we have stopped and delayed every single
3 one of them one to three years, because we are not going
4 to suffer the consequences. And when our local South
5 Coast Air Quality Management District said we're going sue
6 BP/ARCO refinery for its numerous violations and sue them
7 in court for 314 million, we said we'd be there to testify
8 and support them. And we're doing that.

9 And when Communities for a Better Environment
10 membership said we're going to sue ConocoPhillips Oil
11 Refinery for its violations, we supported that lawsuit.

12 And when San Pedro residents said, "We needed
13 help going against Kinder-Morgan," which is now the
14 largest owner of oil and gas pipelines and storage tank
15 facilities in the United States, we told them we would
16 support them. And guess what. On September 5th, 2004,
17 they were ordered to close business permanently, forever.

18 And, again, we asked the Port of L.A. and the
19 Port of Long Beach, "Do something about the truck
20 traffic." "What can we do? They're independent
21 truckers." So we got together with Senator -- at that
22 time Assemblyman Allen Lowenthal and we created a bill to
23 limit truck idling at the ports. Because they would wait
24 in line three to four hours, every single truck, every
25 single day. And that law passed, limiting it to 30

1 minutes.

2 So we are prepared to sue every port, every
3 industry, every government agency. We are prepared to
4 stop everything if that's what it takes to improve the
5 quality of our life and improve our chances of survival
6 for our children. We will do that.

7 And as public-appointed officials and elected
8 commissioners, it is your responsibility to protect the
9 public's interest -- not business interest -- the public's
10 interest.

11 The thousands of chemicals that are poisoning us
12 we did not invent. We didn't vote to have them included
13 in our products. We didn't vote to be exposed to them.
14 But we have always asked to give us that right to make
15 that decision. We have always asked that you weigh the
16 consequences. And if industry cannot prove scientifically
17 and medically it is safe, you cannot approve it.

18 You cannot approve expansion because it's an
19 economic engine. Because I'll give you a list right now
20 of 24 cost categories that the public incurs that are
21 never included in any cost benefit analysis.

22 Well, we want that to be done now. And we ask
23 you to take these into consideration, because our lives
24 and our futures are at stake here.

25 And I may represent my organization and our few

1 members, but we represent millions of lives because we are
2 united here with the other public and the other community
3 organizations here, because we recognize it's a very small
4 world and we're not going to allow us to be killed or
5 poisoned. And we're not going to allow these same
6 industries to go to a third-world country, because I have
7 family in Mexico and Central America and I have friends
8 with families in South Africa and Indonesia. And we're
9 not going to allow them to go poison them or kill them
10 either.

11 So we ask that you listen to us because we are
12 the ones you represent. And we are serious about what we
13 mean. And we will take whatever actions are necessary.
14 And, no, we will not accept "no" or "can't be done" for an
15 answer, because we know there's alternatives and there are
16 solutions for everything. And we want no backroom deals,
17 we want no memorandum of understanding signed behind our
18 backs by any government agency because it's federally
19 preempted. We will change the laws. We will modify the
20 laws. And we are prepared to sue the railroads right now
21 to make them comply and come to the table and work out a
22 better life and future for us.

23 So we ask you again, evaluate and assess
24 everything. And if you need to make a chart of the pros
25 and the cons and the goods and the bads, then let's make

1 that chart. Because I don't want to be here six months
2 from now or a year from now reinventing the wheel when we
3 had an opportunity now to take better care of business.
4 And those of us that are here from the public are more
5 than happy to volunteer to sit on any committee to
6 reassure that nothing has been overlooked.

7 Thank you.

8 (Applause.)

9 CAL/EPA UNDERSECRETARY BRANHAM: Thank you, Jesse.
10 Mily Trevino-Sauceda -- I know I messed that up --
11 followed by Sylvia Betancourt.

12 EJ ADVISORY COMMITTEE MEMBER TREVINO-SAUCEDA:

13 Thank you. Good morning.

14 I want to thank you for the time that you're
15 spending here trying to listen to the public. And I think
16 being part and being my first time as an Advisory
17 Committee member yesterday, I learned a lot in terms of
18 learning how to listen, and listen to everybody. At the
19 same time I learned the power of information.

20 And at the same time I also learned that there
21 was very little information that was given about farm
22 workers. And I represent farm worker women around
23 California and actually in other states also. I come from
24 a farm worker family. We were migrants. I was born in
25 the states. I have nine siblings. And we all migrated

1 from state to state. And it was very, very hard for us to
2 go to school or work before school -- because we were
3 working before school and after school, it was very, very
4 hard for us to even concentrate while you were in school.
5 And then not having during that time bilingual education,
6 it was much harder for the people that were supposed to
7 educate you give you quality education or adequate
8 education. So that was my time for maybe sleeping during
9 the day.

10 But at the same time working in the fields, it
11 reminds me, it reminds me every time at this point that
12 I'm one of the advocates for the farm worker community.
13 Every time I hear that there are not only one farm worker,
14 two farm workers, three or four, but large crews of farm
15 workers being still poisoned. Like not that long ago in
16 Kern County, Central Valley, a whole crew was poisoned.

17 And it reminds me what I went through working in
18 California in the Palo Verde area, which is the Blythe
19 area. I was picking lemons. During that time I was on
20 top of the tree picking lemons, cutting them and a small
21 plane went by and sprayed all over everybody sulfur.

22 It was not the first time. But I remember that
23 time the most because there was a pregnant woman in that
24 crew. Of course there were a lot of effects that
25 happened. Many of us got ill. We could hardly see. Our

1 eyes were burning. Our skin was itching. We could not
2 stand our body. It was very, very hard. There was no
3 water for us to rinse. We couldn't -- I remember watching
4 my brothers and my dad and my co-workers trying to get
5 water from what we would bring containers to drink for
6 ourselves. And pouring it on our faces because that
7 chemical was hurting us a lot. And then several months
8 later this woman that was pregnant, the effects of that
9 killed her. They almost lost the baby. I will never
10 forget that. I was 16 years old by then.

11 And I had gone through many, many times of not
12 only being sprayed through, you know, working next to a --
13 or working on -- or picking grapes or cutting the
14 grapevine branches to prepare them -- to prepare the
15 grapes, and having tractors on the side spraying the
16 chemical.

17 This is still happening right now. The reason
18 why I'm mentioning this is because it deals with the
19 socioeconomic factors of our community. It deals with the
20 many exposures on long-term effects. It deals with many,
21 many combined things that happen in our community. And
22 I'm lucky I'm alive. But you know what. Last year we
23 buried our father-in-law, who died of cancer. And it was
24 so painful for us, because in our families there's no
25 cancer. There's no cancer. It's not in your tradition

1 that we are unhealthy -- an unhealthy community.

2 And we don't have those illnesses unless we have
3 come to do the work in the agricultural fields and being
4 sprayed. He worked during the times since the forties,
5 since the Government asked during those times to hire
6 workers in Mexico and bring them over here and get them to
7 work during the time and send them back. That's the
8 bracero program. He did that many years. Then he
9 continued doing that. He brought the family. And the
10 family went through a lot. My nephews, which there's
11 no -- we don't -- in our families -- we're healthy
12 families in Mexico.

13 In here everybody has asthma. Because we're not
14 informed, we don't know why. And at this point in time I
15 remember -- at this point in time every single day that I
16 hear that workers in -- not only in the Central Valley or
17 workers in the Salinas Valley or workers in the Coachella
18 Valley or in the Ventura County or up north in northern
19 California -- are being injured on the job, are being
20 sprayed. It brings back memories. So are we really
21 taking care of the environmental issues that are happening
22 within the whole public?

23 Now, I truly support what we did yesterday as
24 part of the Advisory Committee. Yes, there were people
25 that were not happy. But this is not about being happy or

1 not. This is about being alive. This is about
2 understanding that we have the responsibility and even
3 business has the responsibility -- and I think businesses
4 have not given that responsibility and they have not been
5 asked to be accountable if they want to continue their
6 business. And I think that the issue here with what we
7 came up yesterday, and the vote -- yes, there was a
8 minority vote that did not want what we're presenting to
9 you.

10 But because the public was talking -- because the
11 public -- when the public gets the opportunity to talk,
12 that's when real things happen. And I am here with you to
13 support the idea of let's try to bring environmental
14 justice. Let's try to make sure that we are responding to
15 the needs and the issues of our communities. This is not
16 just people coming from their communities and talking and
17 talking. We do want to have some real action.

18 I also want to add this part. And it really -- I
19 cannot leave the seat before mentioning what I'm just
20 going to say.

21 I was -- I filled out this card and I turned it
22 in. But then I realized I filled out the information in
23 English. This is because I've been fortunate, even though
24 as an adult I went back to school.

25 The translation for the information that you have

1 is totally wrong. So if someone that comes and writes --
2 or wants to give comment and if they're reading the
3 information you're providing, it's totally wrong. For
4 public participation you have Impactos. There's no word
5 Impactos. It's not a word.

6 CIWMB CHAIRPERSON MARIN: You're right.

7 EJ ADVISORY COMMITTEE MEMBER TREVINO-SAUCEDA:

8 Okay. And Acumulativos is not a word.

9 Cumulative impacts in Spanish you have impactos. There's
10 no such word. And there's other words here.

11 This is telling me that my community, not even to
12 allow us to talk -- I'm fortunate. I'm bilingual.

13 And I'm going to go back. And let me just give
14 this last thing about tobacco. We've been fortunate in
15 terms of putting -- doing this type of work in California,
16 I go other places and I can see the difference. When you
17 translate secondhand smoke in Spanish, of course people
18 have heard it already. It's a term that you're using in
19 Spanish -- humo segundo mano. Humo segundo mano, you
20 translate that into English, it's the smoke coming out of
21 the second hand. That's what it means.

22 So I think that we're going to do a campaign in
23 Mexico and ask them to try to translate that information
24 for you and see if it works here. Because I think this is
25 the way that maybe we're going to be communicating. And

1 by sharing this just -- it shows how much a priority
2 you're giving to the communities that you're representing
3 in this case. It deals with socioeconomic. I had to come
4 here and be able to be bilingual to be able to read what
5 it says in English so that I myself translated it and
6 found out -- well, what -- what -- I don't -- I'm glad
7 I -- I'm glad I know English.

8 With all due respect, I want to leave this
9 presentation by just saying -- concluding that: I have
10 not only seen -- I have not only lived the situation of
11 being affected by chemicals. I've seen my family and
12 how -- the effects of that. My mom lost three pregnancies
13 because of that, because of chemicals that were being
14 applied. My aunts. My son has seen so much. And not
15 until a few years ago I learned about the Environmental
16 Protection Agency. And not until two years ago or maybe a
17 little bit less than two years ago I'm learning that this
18 Advisory Committee -- because this is the first time I'm
19 involved -- this Advisory Committee is really pushing
20 forward to make sure that this Agency really responds to
21 what the public needs.

22 If in the past the public did not have the
23 opportunity to voice out the realities in our communities,
24 at this point in time what has been presented by the
25 Advisory Committee, yes, in its majority it was the

1 public, the one that is presenting to you this proposal.

2 It's talking about the community impacts, which
3 mean exposures of public health and environmental effects
4 from the combined emissions and discharges in a geographic
5 area, including environmental pollution from all sources,
6 whether single or multi-media, routinely, accidentally or
7 otherwise released.

8 And I think that what I just shared about my
9 experience, what I've seen, what we have gone through as a
10 community as it -- because we have been not only
11 invisible -- everything that I just shared is bringing out
12 the light of what some of us have lived. And I also want
13 to invite you to come -- not to come and observe -- come
14 and work with farm workers. And I'll take you to some of
15 the places where there is no union involved. And it's a
16 very different place, a very different environment,
17 because there's no protection. And see if not only you
18 will endure the physical work, but at the same time you
19 smell the chemicals and you at the same time are being
20 poisoned. I'm not asking you to go and get poisoned, but
21 to understand what we go through. And the families that
22 live around are being exposed by the drift of those
23 chemicals that are being sprayed where there's no
24 precautions for that.

25 Thank you.

1 (Applause.)

2 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

3 Sylvia Betancourt, followed by Davis Baltz.

4 MS. BETANCOURT: Hello. My name is Sylvia

5 Betancourt. I was raised in the City of Commerce in a

6 three-block area just west of the 710 freeway, between two

7 intermodal facilities, Union Pacific and BNSF Railroad.

8 My experience in living in this community has

9 been one that has been enjoyable. I love my neighborhood.

10 I love my neighbors, always and times in need of

11 support -- sometimes my -- actually -- and times of need

12 in support my neighbors have been actually more helpful

13 than family. And in our neighborhood when something

14 happens, I think what occurs is we come together.

15 At times there have been funerals, there have

16 been celebrations. Within all of this we've experienced

17 extreme problems in cancer, different types of cancer,

18 lung cancer, throat cancer and, mostly significantly for

19 me, breast cancer.

20 There are 80 homes in this area. And there are a

21 handful of women -- six women who have been attacked by

22 breast cancer, one who has passed away. This is a

23 significant problem for anyone. And I've been told that

24 without scientific evidence that the air pollution has

25 been the cause of these types of cancers, that there

1 really isn't anything to base my displeasure on and the
2 fact that, you know, the air pollution in our neighborhood
3 is just absolutely disgusting.

4 Aside from the fact that many people can see that
5 not only is it what we're breathing; but when you look at
6 the trees, the trees have a thick kind of a soot that sits
7 on it, something that even if you try to wash off the
8 leaves, it's greasy, it's hard to clean off.

9 Your furniture -- for example, if I were to clean
10 off my furniture and dust it off, within two hours it's
11 dusty again. So a lot of people comment about how if this
12 is what I see on my plants and on my furniture, what could
13 I possibly be breathing.

14 These are observations made by people who are not
15 considered, quote-unquote, experts, who are not considered
16 scientists. But I think it's reasonable to see that the
17 problem is in our air. And if we needed numbers and
18 quantitative measures in order to tell us that one affects
19 the other, well, I also want to give validation to the
20 community and the observations that we make.

21 There was a comment made about quantitative
22 research being the best type of research. And I want to
23 add that I believe that qualitative research is not
24 necessarily better or worse, but I think that a
25 combination of the two, that a mixed method can be very

1 helpful in bringing forward information.

2 And I believe that the community can be
3 instrumental in actually collecting the data.

4 I also wanted to show may support for the EJ
5 Advisory Committee and the language that was put together
6 yesterday. There was a lot of work that was spent on it.
7 And I know that there were comments made about words and
8 prepositions and grammar. But I believe that it's
9 important that the language, which will be the framework
10 with which the pilot project particularly in the city of
11 commerce will take shape, that it should reflect the
12 reality of the community.

13 Thank you.

14 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

15 Davis Baltz, followed by Barry Wallerstein.

16 MR. BALTZ: My name is David Baltz and I'm here
17 representing Commonweal. We're a health and environmental
18 research institute in Bolinas, California.

19 And we support the recommendation put together
20 yesterday by Environmental Justice Advisory Committee. As
21 was noted, the vote was 9 to 4. There was an attempt to
22 reach consensus. And failing that, we had a vote -- 9 to
23 4 is better than 2 to 1, which, you know, is a landslide.

24 We support this expanded definition because it's
25 more compatible with your stated goals to adopt a

1 precautionary approach and work for environmental justice.
2 And we know there's a growing body of literature --
3 scientific literature that suggests there are health
4 impacts of concern that are linked to environmental
5 exposures. And, furthermore, we know that there are many
6 diseases that are arising at alarming rates. Some of the
7 ones with the strongest evidence linking them to
8 environmental contaminants are asthma, brain cancer,
9 breast cancer, childhood leukemia, infertility,
10 endometriosis, learning disabilities, prostate cancer,
11 testicular cancer, and Parkinson's disease. There other
12 diseases where the evidence may be less strong. But the
13 fact of the matter is, this is a cause for concern for
14 everyone in this room.

15 What we're seeing in this process over the last
16 two years and now at a critical point is the vested
17 interests of industry are trying to whittle away at an
18 expansive process that looks at cumulative impacts in a
19 precautionary approach by looking at a single chemical by
20 a single chemical, single exposure by single exposure for
21 a 160-pound man in an attempt to convince us that there's
22 no problem with any of these exposures.

23 Now, tackling cumulative impacts is very
24 ambitious and you should be commended for doing it.
25 There's not too many people or committees anywhere who

1 have decided to take this on. But you have agreed to do
2 it.

3 More information is better than less information
4 in a case like this. I urge you to not restrict your
5 ability to respond and to achieve your environmental
6 justice goals by limiting the data you will consider.

7 Thank you.

8 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

9 Barry Wallerstein, followed by Brenda Southwick.

10 EJ ADVISORY COMMITTEE MEMBER WALLERSTEIN: I'm
11 going to say good afternoon because I think my watch says
12 it's a couple minutes after 12.

13 I'm Dr. Barry Wallerstein. I'm the Executive
14 Officer at the South Coast Area Quality Management
15 District. And I appreciate the opportunity to appear
16 before you this morning.

17 I am also one of the Committee members from the
18 Advisory Committee. I served on the original committee
19 and am continuing to serve on the reconstituted committee.

20 I wanted to just share a few comments with you.
21 At South Coast AQMD, as many of you know, we're the
22 largest local air district not only within the state but
23 been the nation. And we've had an environmental justice
24 program for over seven years. And so as the Committee
25 yesterday was deliberating what definition to recommend, I

1 wanted you all to know that before I voted in favor of the
2 one that the Committee has placed in front of you, I did a
3 little internal soul searching as to whether I would be
4 willing to implement this definition at South Coast. And
5 the answer to that was yes.

6 I think the main issue, as you've heard in the
7 testimony, between the staff recommendation and this one
8 besides the community members feeling very strongly that
9 the Committee-proposed definition gives a better clarity
10 on several points, is this issue of socioeconomic factors
11 to be considered as part of impacts.

12 I would suggest that anyone who's ever in recent
13 years stepped on to a children's athletic field and
14 watched all the kids take -- not all of them, but many of
15 them use inhalers to try and prevent an asthma attack,
16 which can be triggered by air pollution, then I would
17 suggest access to medical care in fact is important as a
18 consideration.

19 I think the basic issue before you, however, is
20 the one that one of the other witnesses raised and, that
21 is, where do you draw the line. I for one am willing to
22 put that in your good hands. I trust Cal EPA to make good
23 decisions. I think incorporating socioeconomic factors as
24 part of the definition allows you then to use your good
25 judgment in subsequent actions that you take as you

1 proceed with the five projects.

2 I hope we don't lose sight of the fact that this
3 is simply a definition of cumulative impacts. It isn't
4 saying what one does about the impacts once you define
5 them. That is to come later in the process.

6 So with that, I would urge the Committee to
7 accept the Advisory Committee's proposed definition.

8 CAL/EPA UNDERSECRETARY BRANHAM: Rosario.

9 CIWMB CHAIRPERSON MARIN: Yes. Dr. Wallerstein,
10 what definition does the South Coast Air Quality
11 Management District have? And does your definition
12 include socioeconomic?

13 EJ ADVISORY COMMITTEE MEMBER WALLERSTEIN: Ours
14 doesn't. But I would tell you if you approve this one
15 today, I would be more than happy to at our agency propose
16 that we adopt your definition.

17 (Applause.)

18 EJ ADVISORY COMMITTEE MEMBER WALLERSTEIN: I
19 would mention that the definition that we adopted, and we
20 also went through a public process, included nuisances.
21 We recognized it wasn't just cancer cases or decreased
22 lung function, but that nuisance has a toll on a
23 community. So I think if you look at the fact we
24 incorporated nuisances in ours, that it is in some of the
25 same spirit relative to the item that is before you today.

1 CAL/EPA UNDERSECRETARY BRANHAM: Thank you, Barry.

2 Brenda Southwick, followed Tim Grabel.

3 EJ ADVISORY COMMITTEE MEMBER SOUTHWICK: Good
4 afternoon. I'm very pleased to be here. Thank you for
5 taking the time to hear testimony. I know it's been a
6 very long morning. We had a long day yesterday.

7 My name is Brenda Southwick. I represent the
8 California Farm Bureau Federation, and I also sit on the
9 Environmental Justice Advisory Committee as a
10 representative of the small business groups.

11 And I'll be brief because I know you'll have a
12 long day ahead of you, and having experienced the one
13 yesterday, I know this is extremely important work and
14 it's important to hear from everyone, but It's also
15 important to move forward in terms of starting to get
16 things done.

17 I want to first try to clear up a misperception.
18 There's a lot of "us versus them" talk here this morning.
19 And I want to express our support for the definition that
20 the Cal EPA staff developed on February 4th regarding
21 multi-media cumulative impacts. We did vote against the
22 alternative definition that was presented by the Advisory
23 Committee here today, but that was by no means an act
24 taken in isolation.

25 The definition offered by the staff dated

1 February 4th had been vetted quite a bit before a number
2 of people, including many people in this room. It was a
3 definition that was already a compromise in our mind.
4 It's not the exact definition that we would have put
5 forward on our own. But in the interests of trying to
6 account for a variety of interests, which is the whole
7 idea behind trying to get people into a room to try to
8 agree on terms, knowing full well that not everyone will
9 get exactly what everyone wants, but everyone will try to
10 move forward together and work on something that will --
11 when implemented will create a better situation for
12 everyone.

13 So, again, I want to endorse the staff definition
14 of February 4th, but reiterate that this was not in any
15 way a so-called business group definition or some kind of
16 definition that only the industrial representatives or
17 other representatives would have supported.

18 I'd like to point out at this time the nature of
19 Farm Bureau. Farm Bureau is an organization that
20 represents 89,000 individuals statewide. And they are the
21 farmers and ranchers in the State of California. They're
22 on the ground. Our members work the land. We have our
23 hands in the dirt. We see the water quality. We
24 certainly understand the importance and value of public
25 input into government decision making. And we actively

1 encourage our members to participate in administrative
2 processes. We will bus our members in when necessary to
3 make comments on things that affect the communities in
4 which they live and the communities where they grow the
5 food that you all eat and the fiber that you use for the
6 clothes you wear. And we are an important component of
7 both feeding the nation and the balance of trade with
8 respect to the nation and the State of California.

9 So while we are an important business interest,
10 we are also people who live in communities and who live in
11 these environments, particularly in rural environments
12 because it takes a lot of land and water to grow food.

13 I'd like to also point out that the Farm Bureau
14 has an organization called the Farm Employer Labor
15 Service. And one of the things that that -- we know it as
16 FELS -- what they do is we make sure that we have a
17 self-directed program for our farm working community, so
18 that we keep people informed of safety measures, of laws
19 that protect their labor interests, laws that protect
20 their health and laws that help them gain access to
21 education. So we understand that there is a need to take
22 a holistic approach.

23 I believe it was Ms. Volturno who said that she'd
24 like to see some of the industries who are charged with
25 polluting treat the community as if it were their own

1 family. And that is one of the objectives of the Farm
2 Bureau as a business entity and as a group of people who
3 work and live in the communities where they farm.

4 Now, I want to make just one comment on the
5 peer-reviewed science issue. And I believe my colleague,
6 Cynthia Cory, has put in a card to comment on the risk
7 assessment aspect of the discussion this morning. So I'll
8 leave that to her. I just want to state that in the
9 document that Barbara Lee distributed on behalf of the
10 Environmental Justice Advisory Committee that presents a
11 narrative discussion of some of the terms that appear in
12 the working definition, there is a statement at the same
13 time requiring all data used to be peer-reviewed may
14 create barriers against development of new and more robust
15 analyses and may make it difficult for communities to
16 provide information for consideration.

17 Well, it's been the practical experience of the
18 Farm Bureau that nothing could be farther from the truth.
19 It is our strong feeling that peer-reviewed science is
20 very important. What it allows is the rigors of sound
21 analysis within a scientific discipline that's measurable
22 and quantifiable and that anyone can look at and say this
23 is what they considered and here's why.

24 Peer reviewing allows for various voices, no
25 matter who does the original work. The peer review

1 objective is to get academia, industry, government
2 officials and independent people with knowledge and
3 expertise to weigh in on the data and what it shows and
4 what it may represent in terms of what should or should
5 not be done, what the measures are, and what the possible
6 effects are.

7 I think in terms of public non-science input,
8 there is a place for that -- a very strong place for that
9 in public participation. And we would certainly endorse
10 that level of public participation where people have
11 access to the information that the agency is considering
12 and can look at it and see for themselves what it means to
13 them, but also are able in some forum to be able to say
14 what's going on in their communities that bureaucrats
15 unless they live in those communities will not know.

16 But that is a separate and completely distinct
17 issue from having peer-reviewed science at your disposal
18 as agency decision makers making decisions about what
19 permits will be issued, what businesses will be cited and
20 what regulatory measures will be implemented in governing
21 the activities of a business in a community.

22 So with that, I thank you very much for giving me
23 the opportunity to speak to you today. And I hope you
24 will adopt the February 4th version of the cumulative
25 impacts definition.

1 Thank you.

2 CAL/EPA UNDERSECRETARY BRANHAM: Thank you,
3 Brenda.

4 Tim Grabiell, followed by Cynthia Cory.

5 MR. GABRIEL: Good afternoon. My name is Timothy
6 Grabiell. I'm here on behalf of the Natural Resources
7 Defense Council. We're an environmental organization,
8 over 600,000 members, 100,000 in California alone.

9 What I want to -- I want to speak briefly to
10 incorporating socioeconomic factors, and then make a few
11 quick points. I know that we're very late, so I'll be
12 brief.

13 Environmental justice is defined as -- it's
14 definition is when poor communities and communities of
15 color are suffering a disproportionate share of the
16 environmental hazards that exist, and they don't receive a
17 proportionate share of the environmental protection
18 through open space and parks. That's the definition of
19 environmental justice, what we understand it to be. And
20 it's necessarily a community-based movement, because
21 they're the ones that have the expertise to have the
22 ability to go out every day and be the eyes and ears of
23 the community and the people that live there and see
24 what's going on.

25 And it's not captured if we -- it's not captured

1 when we divorce the idea of community-based approach and
2 community science from what we consider and understand
3 environmental justice to be.

4 Socioeconomic factors in my opinion should
5 definitely be included. There's no way we can possibly go
6 about doing this without them.

7 I'm going to give you an example from my
8 organizing days in New York. I used to be organizer for a
9 group called Se Hace Camino Al Andar, which is in English
10 "Make the Road by Walking," an environmental justice
11 housing organization. Very Dynamic. And we operated in
12 Bushwick Brooklyn, which happened to be in the lead paint
13 belt of New York.

14 Childhood lead poisoning was a huge problem for
15 us. It was a problem because the housing stock was very
16 old and had a lot of lead-based paint in it. And also
17 being that it was a depressed area, an impoverished area,
18 it had a lot of industry and factories that brought in
19 truck traffic. It actually had truck clean facilities
20 where the trucks would idle in a diesel, and the lead that
21 comes therefrom would emit into the community.

22 You know, understanding the lead poisoning
23 problem in this community, it wasn't solely just looking
24 at the housing stock and the lead-based paint. It was
25 also looking at the diesel emissions and some of the other

1 factors that came into play.

2 As you know, lead poisoning causes behavioral
3 problems, it inhibits the mental development and the
4 mental facilities of the individuals that suffer from it.
5 It makes you more susceptible to other diseases. It
6 weakens your immune system.

7 And one of the primary ways that you can prevent
8 childhood lead poisoning or lead poisoning in general --
9 and it is particularly nefarious with children because
10 they're still developing brains and bodies, suffer the
11 most when they're exposed to it -- is early detection and
12 prevention if possible. And a lot of the socioeconomic
13 factors of the area that we lived in prevented this, did
14 not allow us to identify it early enough to be able to
15 prevent it. As you know, that has no threshold level.
16 And families that are impoverished, that live in poverty,
17 usually have no access to health care so they're not able
18 to get the lead poisoning identified at an early enough
19 stage.

20 Being impoverished, they have an inability to
21 move. A lot of times they're forced to live where they're
22 living because it's rent stabilized or whatnot. They
23 can't move out of the neighborhood that has the lead-based
24 paint and they can't move out of the neighborhood that has
25 the emissions and the lead in the air in their

1 neighborhood.

2 That's a socioeconomic factor.

3 Latinos -- I worked in predominantly Latino area.

4 And Latinos, sometimes there's a disconnect between

5 agencies and information because they speak another

6 language.

7 Spanish was predominantly spoken in Bushwick.

8 There were Puerto Ricans and Dominicans that didn't even

9 speak English and they had no accident information and

10 understanding of what the causes of some of the behavioral

11 problems that the children were having were. And this is

12 largely based on the fact that they had disconnect and

13 this is a socioeconomic factor.

14 Also there were immigrant communities as well in

15 there. And immigrant communities sometimes have a fear of

16 government or are skeptical of government. If we look at

17 what the -- what we were doing recently down in southern

18 California with the raids on. Basically any Latino event,

19 that's something that stifles Latino participation in some

20 of the public participation processes, for the forests,

21 for some of the other -- for facilities permits, et

22 cetera.

23 And a lot of times socioeconomic factors lead to,

24 you know, being overworked, not having a lot of free time,

25 not being about to go and take your children to the

1 hospital, to the medical clinics. So in that sense the
2 lead poisoning can't be understood without taking into
3 account these socioeconomic factors. And that's why it's
4 part and parcel to the definition of environmental justice
5 to include them.

6 But it also applies to other things as well:
7 Asthma, whooping coughs, cancer, respiratory diseases.
8 They all have cumulative impacts and they're all
9 exacerbated by the socioeconomic factors. So to leave it
10 out, I just want to reiterate, is to me defeating the
11 purpose. It's almost oxymoronic to have a definition of
12 cumulative impacts in environmental justice that doesn't
13 include socioeconomic factors.

14 So we have to create the strongest foundation
15 possible. I want to reiterate all the comments that
16 everyone said before about, you know, opening up the scope
17 of this action plan as wide as possible, so that then when
18 we get the information, we can make decisions on how to
19 proceed and what kind of actions are necessary. If we
20 circumscribe it now at a very early stage, we're going to
21 be limiting the amount of knowledge that's going to come
22 from -- and the amount of action that we can take to
23 ameliorate these problems. And you'll find that we'll
24 eventually have another EJ action plan group and an
25 interagency working group on EJ again because we

1 overlooked the problem the first time. And let's not let
2 that happen. We can't afford it.

3 You're going to -- you know, I find interesting
4 the industry element in this whole discussion. People,
5 you know, are on certain sides. You know, a lot of EJ
6 activists and a lot of representatives from EJ communities
7 have a view that I really think is fundamental to
8 understanding what we're doing here. I mean the reason
9 why we're here is because of the community activism,
10 because they've made us aware of the problems that exist
11 in their communities and what are causing them.

12 And then we have industry, which -- I mean I
13 really see, you know, very little utility at this point,
14 because the problems we face are not going to be solved by
15 the minds that created them. We're here because business
16 as usual has led us to come to this point.

17 Last, I just want to reiterate Caroline's from
18 the Center on Race, Poverty and the Environment's views on
19 peer-reviewed studies: It is inhibiting and limiting for
20 the community. I don't have a problem with including
21 peer-reviewed studies, but solely relying on them would
22 just further environmental injustice.

23 So thank you for the time to comment. And good
24 work.

25 (Applause.)

1 CAL/EPA UNDERSECRETARY BRANHAM: Just one second,
2 Tim.

3 Tim.

4 Rosario.

5 CIWMB CHAIRPERSON MARIN: Yeah, I have one quick
6 question.

7 I forget the last name. Gabriel?

8 MR. GABRIEL: Gabriel, yeah.

9 CIWMB CHAIRPERSON MARIN: Does it matter -- I
10 mean should we take into consideration what industry
11 thinks at all, in your view?

12 MR. GABRIEL: I think that we should take into
13 consideration, in understanding the nature of the problem,
14 what they think. But I think in coming to define some of
15 the impacts that the communities are feeling, which are
16 necessarily community impacts, that they are the only ones
17 who have the expertise to know what they are and to be
18 aware of. I think in that sense we really have to just,
19 you know, as a point of departure, see what the community
20 says, see what they want to take into consideration and
21 see what they're saying. Because if we ignore them, then
22 we're doing what we've always done, which is to ignore
23 credible community science for the sake of peer review or
24 industry reviews or maybe just, you know, a lot of us come
25 from academic circles and --

1 CIWMB CHAIRPERSON MARIN: I appreciate that.

2 But --

3 MR. GABRIEL: Yeah, to get to your point.

4 Yes. But I don't necessarily understand how
5 they're going to help us understand cumulative impacts. I
6 don't understand how they're going to help us to
7 understand the precautionary approach. Public --

8 CIWMB CHAIRPERSON MARIN: Because you understand
9 that it could have a very chilling effect to any and all
10 progress.

11 MR. GABRIEL: Yes. I'm thinking about the
12 effects later, because I want to actually understand the
13 problems first. And so that's why, given that, you know,
14 we've seen in this process that people fall on certain
15 sides of the fence, I mean we're here, we're an EJ -- we
16 have EJ activists in the EJ community speaking on behalf
17 of certain things that be included. And then we have
18 industry saying no. And I don't know why we'd want to
19 limit the amount of information on which we're going to
20 base our judgments. So that's where I don't see the
21 utility.

22 Now, if there is a role for them in the future, I
23 don't want to be someone who says, "Oh, no, industry has
24 nothing to do with it."

25 But at this stage, I see they limited utility, in

1 my opinion.

2 CAL/EPA UNDERSECRETARY BRANHAM: Anything else?

3 MR. GABRIEL: Thank you.

4 CAL/EPA UNDERSECRETARY BRANHAM: Thanks, Tim.

5 (Applause.)

6 CAL/EPA UNDERSECRETARY BRANHAM: We're going to go

7 ahead and take Cynthia's comments. I've been reminded

8 that the court reporter has been dutifully typing away

9 there without passing out.

10 (Applause.)

11 CAL/EPA UNDERSECRETARY BRANHAM: So I think -- I

12 was hoping we could get through, but the cards just keep

13 coming. So I think what we'll do is take Cynthia's

14 comments, go ahead and take our lunch break, and plan on

15 returning, if we could, at maybe 1:15 to try to continue

16 slugging through this.

17 So thank you for your perseverance.

18 Cynthia.

19 MS. CORY: Secretary Lloyd and undersecretary

20 Branham and members of the Committee. Thank you for the

21 opportunity. I'll be very brief. I don't want our court

22 reporter to be unduly stressed over here, because he'll

23 definitely have a multi-media cumulative impact.

24 (Laughter.)

25 MS. CORY: I was with you in spirit yesterday. I

1 was not here in person, but I did watch you on the
2 webcast, and I know it was a long day.

3 There was an earlier comment about the term
4 "multi-media cumulative impact" not being in the Spanish
5 language. I haven't checked an English dictionary lately,
6 but I kind of doubt it's in an English dictionary either.
7 And if I was to pull anybody off the street and ask them,
8 I bet they would say it means -- "I think it means having
9 my iPod, my TVo, my television, my DVD and my stereo on
10 all at the same time in the same room."

11 But in all serious, the reason I'm pointing this
12 out is because it is a new term for all us, and it's
13 very -- I think it's very important to define it
14 carefully. It's going to have a huge impact on how Cal
15 EPA continues their enforcement in the regulation.

16 As stated earlier by my colleague, we support the
17 February 4th definition that was crafted by the Cal EPA
18 staff with a lot of input from the public.

19 We support looking at factors that can be
20 quantified and that are based on peer-reviewed science.
21 And I understand the concerns that have been expressed
22 here about other factors. I think there's ways we can
23 look at them and ways we can approach them. But I think
24 it's very important that we stick to the areas that Cal
25 EPA has jurisdiction and authority over.

1 There's a lot of concern about looking at
2 subjective factors such as whether someone smokes. That's
3 a choice. That makes them unhealthy. I'll challenge
4 anybody to say it doesn't. Whether they eat nutritious
5 food or not, that's going to affect them. And that's
6 going to have an effect on how healthy they are and how
7 stressed they are. And I think that those are very
8 subjective and they're personal choices. We need to stick
9 to peer-reviewed quantified science and we do support the
10 definition of the Cal EPA staff from February 4th.

11 Thank you.

12 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,
13 Cynthia.

14 So we will return at 1:15.

15 CAL/EPA DEPUTY SECRETARY DODUC: Excuse me. I'm
16 just reminded by our legal counsel to advise the IWG
17 members to not discuss this topic and reach any
18 substantive -- not conduct any substantive discussions on
19 this matter during the lunch break outside of a public
20 meeting.

21 CAL/EPA UNDERSECRETARY BRANHAM: Thank you, Tam.

22 CAL/EPA SECRETARY LLOYD: I was going to just
23 mention to Jim, when we talk about peer-reviewed
24 science -- and I'm a firm believer in peer-reviewed
25 science -- but maybe we could put something just to say,

1 "as much as possible on peer-reviewed science." Because
2 I'm reminded that if, for example, a paper is submitted to
3 science and we're in the evaluation process, it will not
4 have been peer-reviewed. But on the other hand to not
5 take it into account would be I think derelict. So maybe
6 something -- "as far as possible on peer-reviewed
7 science." And maybe that's too simple a fix, but
8 something to consider over lunch.

9 Yeah, yourself.

10 (Thereupon a lunch break was taken.)

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1 AFTERNOON SESSION

2 CAL/EPA UNDERSECRETARY BRANHAM: We're going to
3 get started. If everybody could take their seats please.

4 Okay. We'd like to continue with the public
5 comment.

6 We have Yuki Kidokoro, followed by Betsy
7 Peterson.

8 EJ ADVISORY COMMITTEE MEMBER KIDOKORO: Hi. Good
9 afternoon. I hope everyone enjoyed their lunch.

10 My name is Yuki Kidokoro, Acting Executive
11 Director with Communities for a Better Environment, a
12 statewide environmental health and justice organization,
13 with offices in Oakland and in Huntington Park.

14 Also I'm a new advisory committee member. And
15 I'd like to thank you for the opportunity to speak today
16 and to serve on the Committee, and also for listening and
17 taking in everyone's comments today.

18 I'll be brief. As many people have eloquently
19 stated this morning and have reminded us, you know, we're
20 talking about communities, we're talking about health,
21 we're talking about children who are getting sick, who are
22 missing school because of their bad -- you know, severe
23 cases of asthma, and some who die unnecessarily.

24 And as I understand, we're here to achieve
25 environmental justice. And this to me means reducing,

1 preventing and eliminating pollution.

2 So the question I ask is: How can we call this
3 the Environment -- Cal EPA Environmental Justice Action
4 Plan if we don't intend to reduce, to prevent and to
5 eliminate pollution in the most polluted communities in
6 California?

7 It disturbs me that some people in this
8 conversation -- the conversation was about being concerned
9 about barriers to increasing pollution rather than
10 figuring out ways that we can all work together to reduce
11 pollution.

12 And as Joe mentioned before, many of us are --
13 we're not opposed to business. We are for healthy
14 economic development, and we know this is possible. And I
15 think that it's important to recognize the difference
16 between pollution and business, that it doesn't have to go
17 hand in hand.

18 So I think that if you want to keep the term
19 "environmental justice" in the action plan, you need to be
20 talking about and implementing pollution reduction,
21 prevention, elimination. And you also need to take, as
22 many people have said before, socioeconomic factors into
23 consideration if you want to be addressing environmental
24 justice.

25 We support the definition of the Advisory

1 Committee that was adopted yesterday because we would like
2 to keep environmental justice in the action plan.

3 Thank you.

4 (Applause.)

5 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

6 Betsy Peterson, to be followed by Nidia Bautista.

7 MS. PETERSON: Thank you.

8 My name's Betsy Peterson. I'm with the
9 California Seed Association.

10 I'd like to start with giving you a little bit
11 about my background. I spent 24 years in UC Davis
12 research in crop science. And in that we were developing
13 and implementing new research toward making a safer
14 environment for workers and also providing good safe
15 quality food products for all of us as California
16 consumers.

17 I started about three years ago at the California
18 Seed Association, and I focus a lot on regulations.

19 And I'd like to start by saying that, just as all
20 the communities in the State of California are not created
21 equal, as we have definitely heard today, industry can't
22 be considered a monolithic block. There's good industry
23 and there's bad industry.

24 My particular association, our membership,
25 they've been farming, they live and work in the

1 communities, they are looking for ways -- they raise their
2 families. And they're always looking for better, safer
3 means to provide a living for their families. Many of
4 them are family owned, much like the Farm Bureau members.

5 In addition to that, with industries they vary in
6 the impacts that they provide to not only the environment,
7 but to the communities that they are surrounded by. And
8 they also vary in the efforts that they place on
9 preventing those impacts.

10 For our membership, we have safety workshops,
11 safety training, so we are high on workers safety, making
12 an effort, a big effort to make it as safe an environment
13 for, not only our workers, but the surrounding
14 communities.

15 With that in mind, I would like to see an
16 emphasis possibly on enforcement because, as I said
17 before, not all industries are created equal. There are
18 some bad apples out there.

19 There's good regulations in the State of
20 California to help prevent problems from occurring. If
21 you're following the regulations, doing a good job of
22 that, and even posing stricter regulations upon yourself
23 as an industry, then you're going to be providing less of
24 an impact on the environment.

25 But let's consider those that are trying to avoid

1 all of the regulations and fly under the radar screen,
2 because there are those out there. If we stepped up our
3 enforcement, maybe that would be a means that we could
4 prevent some of the impacts that we are seeing on our
5 communities.

6 So with that in mind, identify the gaps and fill
7 the gaps. And the best way to do that, in my opinion, and
8 the opinion of our members, would be to use good solid
9 science. Because that way you have a control measure.
10 You can make good sound judgments based on good
11 information. Science is an ongoing process. It's not
12 something that we're going to take what we have right now
13 and that's where we're going to stop. We're continuing
14 through the good use of research. There are a lot of
15 people out there that are not represented in this room
16 right now that are searching out better methods for
17 keeping our workers safe, keeping our communities safe,
18 and still providing all those goods and services that we
19 as consumers in California rely on.

20 When you go to the grocery store. I always
21 prefer to buy California grown because I know that there's
22 a lot more effort that's gone into protecting our
23 consumers for the quality of the food that they are able
24 to purchase.

25 So we support the February 4th definition that

1 the staff provided based on all the public comment periods
2 for the last umpteen months, years. And we'd like to
3 suggest that we are flexible and that we need to continue
4 to work at this as a process. It's a tough process. And
5 I commend you for all of your hard work and efforts for
6 doing this.

7 Thank you.

8 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

9 Is Nidia Bautista here?

10 Tim Shestek, followed by Angelo Logan.

11 MR. SHESTEK: Good afternoon. I'm Tim Shestek
12 with the American Chemistry Council. And we do appreciate
13 the opportunity to participate, I should say, in this
14 whole entire process. And I do want to commend the staff
15 and this group and the advisory group for its efforts to
16 solicit and then consider all stakeholder involvement and
17 comments.

18 The ACC member companies take seriously their
19 commitment to public health and environmental protection.
20 And I think that's demonstrated in our Responsible Care
21 Program, an industry-led voluntary initiative on
22 environmental stewardship, product stewardship, public
23 health, plant security. In many cases those programs and
24 those requirements of our member companies go well beyond
25 what's required by the government.

1 The proposed definition of multi-media cumulative
2 impacts is a product of a lengthy and comprehensive
3 process that this group and others have gone through. We
4 do have some concerns associated with the alternative
5 definition that was developed yesterday. And I think
6 those concerns center around a number of questions and
7 ambiguities I think that we have some concerns with, you
8 know, especially focused on how some of these factors will
9 be identified, which factors would be incorporated into a
10 cumulative impact analysis, what process would be used and
11 afforded all stakeholders, for example, in perhaps a
12 permitting situation. And I think perhaps more
13 importantly, what role does Cal EPA envision in addressing
14 some of these factors that might be identified.

15 We believe that the staff recommendation that's
16 before you today is a major undertaking in addressing
17 environmental challenges facing the state and we would
18 urge your support of it.

19 Thank you.

20 ARB EXECUTIVE OFFICER WITHERSPOON: I have a
21 question.

22 CAL/EPA UNDERSECRETARY BRANHAM: One second, Tim.
23 Catherine.

24 ARB EXECUTIVE OFFICER WITHERSPOON: We've heard a
25 couple times about the lengthy and extensive process that

1 went into developing the definition that's up on the
2 screen without the red letters.

3 Could Mr. Faust or Tam explain what went in to
4 coming up with this definition and how many workshops were
5 there, were all the stakeholders represented and that sort
6 of thing.

7 CAL/EPA DEPUTY SECRETARY DODUC: Yes, I can do
8 that.

9 We conducted four public workshops in October and
10 November of 2004. One workshop was in Fresno, one was in
11 Diamond Bar, one was in Oakland, and one was here in
12 Sacramento.

13 And in addition to the four public workshops, we
14 conducted an open public comment period from the very
15 first workshop through January 3rd, 2005. We extended the
16 comment deadline twice at the request of various
17 stakeholders. From across the board, including tribes,
18 community groups as well as business.

19 And once the public comment period ended on
20 January 3rd, 2005, we considered -- reviewed all the
21 comments received, prepared staff initial recommendations
22 based on those sets of comments, released those comments
23 on January 14th for a 30-day public notice prior to this
24 meeting.

25 After the release of the January 14th

1 recommendations, we also asked stakeholders to provide
2 comments. We conducted a series of conference calls. I
3 should say that these conference calls were initiated by
4 Jim Marks of DTSC in October of 2004 as part of the
5 dissipation effort. And when we released the staff
6 recommendations in January 14th, we thought that these
7 conference call forums would provide a good opportunity to
8 engage stakeholders in a dialogue and discuss the
9 recommendations that were released on January 14th. We
10 expanded the initial group that participated in these
11 conference calls to basically anybody who told us that
12 they wanted to be involved in the discussion.

13 We sent out I think a pretty long E-mail list to
14 folks, inviting them to participate in these conference
15 calls, inviting them to also provide input to us through
16 the Internet -- the on-line discussion forum that we
17 established. And of course our staff were available to
18 take phone calls to answer any questions. As a result of
19 those dialogues, we made some revisions trying to address
20 the various concerns and issues that were raised, and
21 released a second set of staff recommendations with some
22 tweaks and changes on February 4th, 2005, the ten-day
23 notice for this public meeting.

24 ARB EXECUTIVE OFFICER WITHERSPOON: If I might
25 make just one observation. I was at a couple of those

1 workshops. And at the two I attended there was not
2 anything like the five hours yesterday or the four hours
3 we've spent today, you know, sort of in a back-and-forth
4 dialogue about the nature of the definition or how it
5 might play out in the real world. So I respect definitely
6 that there has been a lot of opportunities to comment.
7 But I think probably what's gone on in the last couple
8 days is qualitatively different than what went on before.

9 CAL/EPA DEPUTY SECRETARY DODUC: I would agree.

10 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: I have a
11 simpler question.

12 So the process to get what's been known as the
13 staff definition was done through the public comment
14 period and brought all together maybe -- how long was the
15 process to come to those two?

16 CAL/EPA DEPUTY SECRETARY DODUC: We started in
17 October 2004. I don't remember the exact date of the
18 first workshop.

19 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: So a couple
20 of months. And now we met -- and I wasn't at the meeting
21 yesterday or wasn't in town. But now we're going over a
22 definition that was basically composed in one night. So
23 it looks like we have the people's -- we have the people's
24 input versus the people's input. It sounds like what is
25 being portrayed here is that that definition is done by

1 Cal EPA -- that's Cal EPA's definition. From what I'm
2 gathering now, it's the definition of a bunch of public
3 input, public participation and everything else versus a
4 public meeting last night that was maybe five hours at the
5 max we're coming up with some differences. So to me it
6 just sounds like people's comments versus -- we're
7 battling over people's comments versus people's comments.
8 And I'm willing to bet, if we had a meeting tonight and
9 came up with -- we'd come up with a totally different
10 definition or something even different.

11 So I just wanted to, you know -- you answered my
12 question for me.

13 Thank you.

14 CAL/EPA DEPUTY SECRETARY DODUC: You're welcome.

15 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Angelo
16 Logan, followed by Rosie Solorzano.

17 MR. LOGAN: Angelo Logan with East Yard
18 Communities for Environmental Justice.

19 I wanted to speak a little bit to the topic that
20 was just raised. And, you know, as I submitted a comment
21 card, there's no area in which to check for kind of a
22 general comment. So I just wanted to -- I will comment on
23 the cumulative impacts, but I also wanted to comment on
24 this particular issue that was just raised.

25 I think that we kind of -- we really need to look

1 at what we're trying to accomplish here, to step back and
2 look at what the job or the task is at hand. And what
3 that is -- and I think everyone recognition that there is
4 some real environmental injustices in communities of
5 color, working class, working poor communities, and it's a
6 major problem, it's a major social problem. Not just for
7 our communities that are suffering and dying, but also as
8 a social problem. It affects everyone. It affects
9 business as well. We know that businesses are not
10 attracted by blithe and by situations that we face
11 everyday.

12 In regard to the subject at hand, it relates to
13 what has caused the problem, from my perspective and from
14 studies that I have looked at, one in particular called
15 "Creating a toxic community," which used -- is case study
16 that looked at the City of Commerce specifically and how
17 that community was created as a toxic -- or became a toxic
18 community. And if we look at what the -- why that
19 happened and why communities are disproportionately
20 impacted by toxic pollution, is that time and time again
21 decision-making bodies have made decisions wherein which
22 they've prioritized businesses interests. And it's
23 happened at county boards of supervisors when they decide
24 to -- that their general plan will have a zoning which is
25 not suitable for communities, so they live right adjacent

1 to heavy industry. It's happened at city council meetings
2 where the city council has permitted a toxic emitter to be
3 right next to a school or homes. And all these have
4 happened because staff and decision-making bodies have
5 taken into consideration the community's best interest.

6 And there's supposed to be a balance. And what
7 we find is that throughout, you know, the history of us
8 doing this work is that the business interests has
9 outweighed the community's interests or public health
10 interests.

11 And so to remedy this problem, to reverse
12 environmental injustice or to achieve environmental
13 justice, what we're going to do is we're going to need to
14 fix that problem, right? What we're going to need to do
15 is we're going to prioritize -- we're going to need to
16 prioritize public health and community health over
17 business interests. And if we don't do that, we're never
18 going to achieve environmental justice.

19 And then what I here today is that we are trying
20 to find a balance between the two. And for many years
21 there has not been a balance. We have been second to the
22 business interests. And I feel -- I feel strongly that
23 we're going to need -- we are going to need to reverse
24 that and prioritize community health and put, you know,
25 secondary businesses' interest.

1 Without doing that I don't think we're going to
2 achieve the task at hand. And so I would like to say that
3 also it's happened -- when people ask how does this
4 happen, how does the environmental injustice happen in
5 these communities? And everyone's been there. And
6 there's not one person to point to. But it happens -- and
7 it's very complex, but it happens -- it happens right
8 here. It happens when you make the decision on
9 definitions. And it's going to happen in other, you know,
10 levels as well. It's going to happen at the city council
11 meetings in our local communities when they decide to take
12 a proactive measure. And it's going to take a lot of
13 these decisions. But it starts here. If you cannot
14 prioritize community health, then we're never going to
15 achieve environmental justice in our communities.

16 And that is the job -- or that is the task at
17 hand. And so I would urge you to consider that
18 throughout -- making your decisions throughout this
19 process, that you need to prioritize public health and put
20 in the back seat business interests.

21 And we understand business is very important.
22 And we're not anti-business. But the priority is our
23 communities health. It's good for everyone, it's good for
24 business, and we need that to happen.

25 Thank you.

1 (Applause.)

2 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

3 Rosie Solorzano, followed by Shabaka Heru.

4 MS. SOLORZANO: My name is Rosie Solorzano and

5 I'm a youth organizer for YUCA, Youth United for Community

6 Action, in East Palo Alto. And we are an organization

7 that works on environmental and social justice.

8 And we support the definition of the

9 precautionary principle and encourage you to adopt it,

10 because it is about time.

11 Oh, and to make this quick, I'm just going to

12 read off my paper.

13 There's this company in East Palo Alto named

14 Romic, and it has numerous violations, some being two

15 small -- in 1999. They permanently brain damaged a worker

16 named Rodrigo Cruz. They have not been paying adequate

17 taxes. They have been working off an expired permit for

18 14 years. They released a very -- they released

19 ferricyanide into the groundwater and also

20 nitrosodimethylamine into the water system as well. And

21 they promised to get an EIR ten years ago, and they still

22 have no EIR.

23 Even agencies such as DTSC have placed no

24 pressure on Romic and their own staff to be responsive to

25 our community.

1 Numerous people in East Palo Alto have asthma,
2 myself being one of them. It's hard to breathe. There's
3 people wheezing everywhere. And there's a lot of people
4 having cancer.

5 East Palo Alto is only 2.5 square miles, and
6 asthma and cancer rates are higher than San Mateo County
7 as a whole. We want to stop ill health effects. We want
8 people to know what is really going on and how to take on
9 health issues they are having. Businesses should be able
10 to prove to communities that they harmless, because it is
11 the community, us, that's suffering, not anybody else but
12 us.

13 Public health needs to be protected. It is the
14 Cal EPA's job to protect the public. You all create the
15 laws and the laws need to protect the people, not
16 businesses that give us those polluting jobs and harms our
17 bodies. If you don't protect us, then who will?

18 And about science, like Penny said, science isn't
19 only chemical science, analytical and databases and such.
20 But we need social science. What the reality is for these
21 communities and people within it, the situations these
22 people have to deal with. And also if we could get all
23 the people that voted for Measure R, all the people we
24 surveyed that have asthma and cancer in here, all the
25 affected lives in California due to pollution and

1 companies being placed in these communities, would it make
2 it more real to Cal EPA the point of the issue? But all
3 those affected people cannot be here. These people have
4 to work. This is not their job. It's your job, right?

5 To provide information, to include the public, to
6 protect the public, that's supposed to be your job. You
7 people took on these jobs, as some of your websites say,
8 to protect public health.

9 Protect our health then, now and today.

10 As everyone else has mentioned, we too are
11 willing to do whatever it takes to take on the necessary
12 action. You are pushing us to that point. We will do
13 what it takes to make you understand. And this is not a
14 threat. It is a promise.

15 Thank you.

16 (Applause.)

17 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

18 Shabaka Heru, and then Barbara Lee.

19 MR. HERU: My name is Shabaka Heru. I'm with the
20 Community Collation for Change, an environmental group
21 that's situated in South Central Los Angeles.

22 I would hope you would indulge me right now and
23 stand with me in celebration of Black History Month. I'm
24 celebrating my black ancestors.

25 MR. HERU: Let's have a moment of silence.

1 Thank you very much.

2 This is very difficult for me because I'm a very
3 nervous person. But I'm thinking about what I have to do
4 when I go back. I have to Thursday chair a meeting in my
5 community about environmentalism. And before we get to
6 environmentalism at that meeting, I'm going to have to
7 talk about a lady who was sitting in a car next to her
8 daughter and she was shot in the head three times last
9 Wednesday.

10 So there are a lot of things on my plate and I'm
11 sure there are a lot of things on your plate. And life
12 has become very cheap in this country.

13 I'm working on the L.A. County General Plan right
14 now. And it's surprising to me because when I first
15 researched the L.A. County General Plan -- its done every
16 25 years -- I realized that the population of L.A. County
17 has shrunk to where black people -- for black people.
18 It's shrunk to where we're about 11 percent of the
19 population. When I grew up we were substantially more
20 than that.

21 So I want to make sure that any plans that are
22 constituted in L.A. County consider us as significant
23 sensitive receptors.

24 I am shocked at the games that people play with
25 words, rhetoric and speculation. The terminology we're

1 often choked with about ebonics, that we can't talk, we
2 can't understand. And I would hope that the people here
3 in this room can understand enough that language can be
4 clear and transparent and that everyone can understand
5 what's being said what's being done. Unfortunately, most
6 of my neighbors don't know what the hell is going on in
7 our community.

8 Right now we're experiencing a re-definition of
9 our community. Most of the blacks or African-American
10 communities -- African-American citizens in our
11 communities who become economically viable, they move to
12 the suburbs to where they have an opportunity to
13 experience the American dream.

14 We're losing our health care. Martin Luther King
15 Hospital, which was the primary health care provider in
16 our community, is being closed. The health care and
17 trauma center -- or I should say the trauma center is
18 being closed because the county, who administers the
19 hospital, found that it wasn't being administered
20 properly.

21 The schools in our society or in our community
22 right now, youngsters going to elementary school. I was
23 appalled at the condition of the lavatories. Some
24 children were telling me that they weren't going to the
25 restroom because it was too filthy.

1 I visited the local community college, and I was
2 amazed because girls were afraid to go to gym classes
3 because they were being raped. And I was told by one of
4 the administrators for the community college system that what
5 used to take two years to complete as far as an education
6 is concerned takes three now.

7 And there's been a tremendous cut in the funding
8 through the UC system in the number of blacks are
9 attending the UC system, because we don't have any racism
10 in our society today.

11 I love the terminology, sensitive receptors,
12 because those are people -- right now we're involved with
13 a struggle, I should say, with a school called Banneker.
14 It's a school for children that have special learning
15 impairments. That school is situated next to a chemical
16 hazard that needs to be mitigated. But those children --
17 I mean they can't speak for themselves, so I'm trying to
18 speak for them.

19 In my community, we had one supermarket that
20 represented the large supermarket chain, it was a Von's.
21 But it moved away. We don't have a Stater Brothers or an
22 Albertson or a Lucky's, we don't have the markets we -- we
23 usually have to go outside of our community for food.

24 I think as far as like precautionary means, it
25 means doing something before than after, simply put.

1 We're living right now in an at-risk situation.
2 I remember when I was coming up, if you were playing the
3 numbers, you were put in jail. But now the state sponsors
4 the lotto. Right now we gamble, not only with our own
5 lives, but we gamble with everyone's lives. We have the
6 audacity to go outside of this country to bring democracy
7 to other people. Right now half the people in this
8 society, in this country don't participate in the voting
9 system. And I hate to tell you how many people voted in
10 my community.

11 I look at the people in the audience and I wonder
12 how many of you had your clothes dry cleaned. Dry
13 cleaners are toxic emitters. I don't wear dry-clean
14 clothes and I don't think you should either.

15 I hope in the future that you would start to talk
16 with us and not at us.

17 Thank you.

18 (Applause.)

19 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

20 Barbara Lee, followed by Rachel Lopez.

21 Rosario.

22 CIWMB CHAIRPERSON MARIN: Are we now on
23 precautionary approaches?

24 Okay. Because two people have spoken to that.

25 Did you already speak?

1 CAL/EPA UNDERSECRETARY BRANHAM: She spoke --

2 EJ ADVISORY COMMITTEE MEMBER LEE: I gave the
3 summary of the Committee's discussions. I actually wish
4 to testify before you in my own right, not as a
5 spokesperson for the Committee.

6 CIWMB CHAIRPERSON MARIN: Thank you very much.

7 I didn't know whether I missed something during
8 lunch that now we've moved into something else and now
9 we're starting --

10 CAL/EPA UNDERSECRETARY BRANHAM: She's been at the
11 bottom of the pile for a couple hours.

12 CIWMB CHAIRPERSON MARIN: Okay, great. Thank
13 you.

14 EJ ADVISORY COMMITTEE MEMBER LEE: I appreciate
15 the opportunity to address you now on my own behalf.

16 I run an air pollution control district, albeit a
17 very small one. But still I have some sympathy for the
18 position you find yourselves in. It's difficult to
19 balance the competing demands that are placed upon you.

20 There are three things that I wanted to address
21 you on. I want to start with just discussing briefly the
22 process here.

23 I understand the Cal EPA initiated workshops on
24 the proposed definition last fall. But it is my
25 understanding that at that time there was no definition in

1 writing for the public to comment on. It was information
2 gathering. And the proposed definition appeared in print
3 for comment when the formal notice for this meeting went
4 out about a month ago; is that correct, Tam?

5 CAL/EPA DEPUTY SECRETARY DODUC: (Nods head.)

6 EJ ADVISORY COMMITTEE MEMBER LEE: And that is
7 when the public began the debate about the definition that
8 staff has proposed for you.

9 And there was a conference call which I had the
10 opportunity to participate in a couple of weeks ago. It
11 was scheduled with very short notice, and a number of
12 people had concerns about that and were unable to fully
13 participate in it because of the notice.

14 But even so, there were quite a lot of people on
15 the call and there was a lot of dissension and a lot of
16 debate, which indicates to me that the issues of concern
17 to the public had not been fully resolved before we got to
18 this forum here. And I think that the amount of comment
19 that you have received and the intensity of the comment
20 you have received underscore that.

21 So I would caution the members of the working
22 group against a conclusion that the staff proposal is a
23 collective public definition.

24 I do think the staff made a very good effort to
25 try to capture what they believed to be the issues of

1 concern to the public. But this feedback process is the
2 process whereby the public gets back to us as regulators
3 and says, "You got it" or "You didn't quite get it" and
4 there are some things that need to be changed. I think
5 the testimony we received last night at the Advisory
6 Committee and the discussion that we had was an attempt to
7 resolve the issues that remained outstanding. And I think
8 part of the source of the concern is the fact, if you look
9 at the narrative that follows the staff proposed
10 definition, it specifically states that there are terms in
11 the definition such as "emissions discharges and
12 exposures" that will require further clarification.

13 These are terms that have huge importance when
14 you're going about approving a definition, trying to
15 understand what is meant by the person writing the
16 definition and what will be understood by the people using
17 the definition.

18 And I appreciate that this is a work-in-progress
19 and that you expect to amend this over time. But the
20 uncertainty about those terms, about what constitutes a
21 sensitive population, about what goes into selecting the
22 geographic area, these are the things that people felt
23 really needed to be aired, discussed and refined. And one
24 of the things that was pointed out, and as you have heard
25 today, the definition did not reference socioeconomic

1 impacts. That's the next point that I wanted to discuss
2 with you.

3 Generally speaking, I have a lot of respect for
4 the business people who sit on the Advisory Committee and
5 participate in the process. It is not easy to continue to
6 engage constructively in discussions when you're being
7 attacked and being asked to receive a lot of public anger,
8 which is part and parcel to being a business member on
9 this committee.

10 That said, I strongly object to the statements
11 that were made that socioeconomic impacts and their effect
12 on public health is all speculation. It is not
13 speculation. There is a robust amount of medical
14 peer-reviewed, quantified information that support very
15 strongly linkages. And where we have that information, we
16 certainly should not be ignoring it.

17 You've heard a number of examples, including
18 asthma, childhood exposure to lead. I think that if you
19 went down the list, you could come up with many on your
20 own that you're aware of. And to the extent that a
21 geographic area that a community is broadly impacted by
22 certain socioeconomic factors that will change the way
23 they respond to health stressors and environmental
24 stressors, you need to consider that in evaluating what
25 you think the impacts are going to be.

1 I don't think anyone is asking you to take wild
2 guesses. But I do think you're hearing a request to
3 change the way you ask your questions and the way you
4 search for your answers, so that you can expand the
5 programs that address environmental justice problems. And
6 the reason that you're being asked that is because the
7 current paradigms, the current questions, the current ways
8 of answering them have been proved to be inadequate.

9 There is still a role, and a strong role, for
10 peer-reviewed, quantifiable information in your
11 decision-making processes. But there is also a role for
12 other factors to be considered to the very best of your
13 ability. And I understand that the uncertainty about what
14 those factors will be and how you will choose to consider
15 them and what you will decide to do about them causes
16 tremendous concern for the business community.

17 And it is your job and our job to find a process
18 to consider those things that allows for give and take and
19 concerns to be addressed. But to exclude them at the
20 beginning is to do a huge disservice to everything you
21 have asked of the Advisory Committee, of the public
22 members, and of the staff of the Agency to come forward
23 and find a way to identify the gaps and address them to
24 prevent problems associated with environmental justice.

25 Thank you.

1 (Applause.)

2 CAL/EPA UNDERSECRETARY BRANHAM: Thank you,
3 Barbara.

4 I think our last public commenter is Rachel
5 Lopez.

6 MS. LOPEZ: Thank you.

7 My name is Rachel Lopez, and I live in Mira Loma
8 in Riverside County.

9 Our community is known for several different
10 things that we would rather not be known for: The worst
11 air pollution, having the biggest transport facility
12 operated by Union Pacific. It has brought into our
13 community more trucks, more truck traffic, more train
14 traffic, adding to the existing critical condition of our
15 air pollution in our community.

16 Our children are suffering from asthma. They are
17 suffering from irreparable lung damage. They -- they're
18 lungs will never be any better than what they are now.
19 They will suffer as adults because of the damage that's
20 been caused to them because of the pollution in the area
21 that we live in.

22 I ask you to please reconsider and look at the
23 definition that was put together yesterday and was added
24 to, to please put back and think about the socioeconomic,
25 and please reconsider that definition.

1 Our community looks to these agencies for help.
2 Your job is to protect our communities, to protect them.
3 We look to you for that help. We don't get it. We don't
4 feel that we're getting it. You know, I don't know how
5 else to put it. Maybe you're not getting it. We hope
6 that you do.

7 Thank you.

8 (Applause.)

9 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,
10 Rachel.

11 Before I ask Dr. Lloyd to make a couple of
12 comments, I wanted to -- I'm compelled to say a couple of
13 things.

14 First of all, thank you to all of you who showed
15 up here today and made your comments. Not only is it
16 enlightening for us, but it's essential for all of us
17 who -- this is our reality in this building each and
18 everyday. And it's always helpful to hear firsthand.
19 Some of it's a little painful to hear, to be candid, for
20 those of us that show up every day and do what think's the
21 best job we can do. And as I look around this table and
22 have the pleasure of working with all of these folks, I
23 can assure you they all have souls. They all take their
24 jobs with a great deal of responsibility.

25 And these are difficult issues. And I appreciate

1 the frustration. I can't put myself in your place. I
2 don't live in your communities, nor do I work for the
3 companies that are represented here. But I can -- I
4 want to assure you that we all take these issues and these
5 decisions extremely seriously. We're doing what we
6 believe is right. That's why we're here. And there's a
7 lot of time and energy going on, not just at these
8 meetings, but every day as we address issues that affect
9 the environment and affect your communities.

10 So with that, Dr. Lloyd.

11 CAL/EPA SECRETARY LLOYD: Thanks, Jim.

12 Sorry. I apologize for being away a significant
13 portion of this morning. But I obviously came back in
14 time to get a flavor of the discussion. And having had
15 some experience at ARB, clearly I'm aware of the issues.

16 And I'm going to have to leave in about five
17 minutes again to give another talk. I'm sorry.

18 I would like to echo what Jim is saying. It's a
19 very tough decision, as you know, we have to make. And
20 when I hear all the stakeholders, you can make a case.
21 And when I sit here looking at the state level and you
22 think of, well, we have a major opportunity, a major
23 obligation for us all, because this is -- a lot of this is
24 unchartered territory. And we're proud of the fact that
25 very often what we do in California spreads to the rest of

1 the world. Or sometimes what they do in southern
2 California spreads up to the state. These are the things
3 we pride ourselves in that internal competition.

4 In this particular case though it's important
5 that we try to come as close as we can to getting it
6 right.

7 Listening to all that's going on, I'm convinced
8 obviously there's no right way. This is a way that's
9 going to continue to -- we're going to have to work very
10 closely together. And it's going to be -- as far as I can
11 see, it's going to be -- have to live this together, have
12 to work on it together. And maybe where we start and do
13 our very best efforts, we may feel that we're coming up
14 short. I hear the issue, as I said this morning, on the
15 peer reviewed. And I'm -- I come from a technical
16 background, to be very strongly in peer review.

17 On the other hand, when I first came up with
18 environmental justice issues, when he goes to see
19 firsthand, you don't have a peer-reviewed document. You
20 talk to people who've lived it. You see people who are
21 subjected to it. And that's not to say -- I say the
22 businesses are impacted. We want jobs. We want growth.
23 So we don't want anything to do to harm that.

24 I was reminded, and we all were reminded very,
25 very vividly. And we always heard the story of Minamata

1 and the lead poisoning, et cetera, we heard today. But
2 just look at what happened to the Premier of Ukraine.
3 Look firsthand at what happens. Clearly that was a
4 tremendous dose of dioxins there. But some of those
5 things may be evolving over a period of time. We may not
6 have all the data, but it has a big problem.

7 So, again, I wish I could come in here, and wish
8 we all, and would be able to say, "Here is the magic
9 bullet. We don't have it." And I think for all sides
10 you're going to have to look to us and say you're going to
11 have to have a certain amount of trust. I think you've
12 got a commitment from all the BDOs here. We're really
13 sincere in this. You have the commitment of the
14 administration, our whole -- where the Governor's had the
15 courage there to speak up on public health and protective
16 of the environment. And that's a very strong statement.

17 So I would -- I guess before I take off and hope
18 you'll -- well, I presume the BDOs are going to say some
19 more. And, Jim, you'll have to get the vote here.

20 But I would hope that we can come up with some
21 language which will recognize the issues that were
22 discussed this morning. It's clear we have two potentials
23 here as starting point. I would hope, however, that maybe
24 we can have something to recognize the socioeconomic
25 factors where applicable, and recognize that maybe we look

1 at this and say, "How do we do that? How do we take these
2 things into account?"

3 How do you encourage the businesses? As we sat
4 in the Ports conference, these are things where we're all
5 enjoying the benefits of cheaper goods coming from China
6 and other places there. And yet the communities are
7 impacted. They didn't ask for that. So we have to try to
8 come up with that balance. And I say where we start out,
9 it may not be there. Where we end up it may be very
10 different. But I would plead with my colleagues that we
11 try to do the very best we can, but also recognize that
12 it's a living document, that today we're starting a
13 process that is going to continue, and continue for both
14 sides, continue the input from the business side. Some of
15 the business sectors we've not heard from today. From my
16 discussion yesterday and Jim's with some of the
17 agricultural community, it's very clear that we need to do
18 a better job in outreach, because people don't understand
19 and uncertainty leads to fear.

20 I hear the same thing from the communities in
21 different parts of the state, that we need to do a better
22 job.

23 But I do applaud, by the way, the spectrum of
24 community groups that have come today. I'm truly
25 impressed with the time you've taken. And also hearing

1 the presentations I've heard and what I heard back
2 yesterday, the real constructive way in this has come
3 forward. I remember the early days with the Air Resources
4 Board where we had very contentious issues. So I think we
5 should remind ourselves how far we've come. And the fact
6 that we've got Cindy here back again working on these
7 issues. And, again, it's give and take. And I see here
8 that's what I'm hoping for, we have some of that give and
9 take. But there are some fundamental issues that we have
10 to recognize and then have to try to incorporate.

11 And I think just to not recognize -- someone said
12 up front, not recognize them as a point there, that we
13 might refine or put all the caveats in there. But put
14 some of those things that we have to address. Because in
15 the end we want to be able to work together, so at the end
16 of the day we can be all proud that we've in fact made the
17 environment safer for all Californians, at the same time
18 that we want business to prosper and grow. The same time
19 as we've been telling -- as I took on an interview this
20 morning, that we're trying to encourage business to
21 address climate change, because in fact they can be more
22 efficient, they can make more money. And climate change
23 is not here necessarily today. Some of these issues that
24 I've seen firsthand, they're here today.

25 And we're going to be much, much stronger if we

1 work together, and, again, as a bipartisan. We're all
2 Californians. And as the gentleman here talking from the
3 black community -- I appreciate what you said. There's a
4 tough issue, that sometimes we also need to follow exactly
5 what work we preach.

6 But we have a tough job. We'll do the best we
7 can.

8 And with that, I would like to turn it over to my
9 colleagues. And maybe, Rosario, I know you're one of the
10 closest to this and one of the ones who convinced me early
11 on that -- and you fought extremely strongly for -- and
12 elegantly for your community.

13 CIWMB CHAIRPERSON MARIN: Thank you, Mr.
14 Secretary. And it's certainly -- as I was listening to
15 the testimony, I kept hearing people saying that their
16 community is the most polluted community. You know, it's
17 not like we're having a race as to which community is the
18 most polluted. But I can tell you that it was a very
19 dubious honor to be the mayor of the city at that point in
20 time that was considered the most polluted. And Mr.
21 Secretary was at that time the Chairman of the ARB.

22 And I did something very similar to what
23 everybody has been saying. When you look at
24 communities -- and my city is the City of Huntington Park.
25 I still live there. Somebody says some of people leave

1 their cities. I don't. And my children are there, my
2 family's there. And we have some very, very serious
3 challenges. So when people are talking about this issue,
4 believe you me, I understand personally what it is that
5 we're talking about environmental justice.

6 My city's a three square mile city. It's
7 surrounded by freeways, completely and totally. It's in
8 the flight path of LAX. The city basically -- you know,
9 the transportation from the ports, both L.A. And Long
10 Beach, goes through -- very, very close to my city.

11 So, needless to say, that the geographic location
12 of our city just by virtue of where we are we had
13 absolutely no control over anything that was surrounding
14 our city. And, yet, you know, our children are exposed to
15 levels of smog and so forth that other communities are
16 not.

17 This is something very close to me. This is -- I
18 live it personally every day. And so at the same time,
19 both as a mayor and as a state official, we need to work
20 with the other side and understand that we have a very
21 difficult challenge before us. We need to balance the
22 interests of one with the interests of the other.

23 It pains me and it hurts me, you know, to
24 understand and to go to funerals and -- I have a son with
25 a disability. I understand that in some streets children

1 with autism. There is a high and disproportionate number
2 of children that are being born in the southeast area with
3 autism.

4 I understand. I live that. I've been an
5 advocate for those communities, those very vulnerable
6 communities. And so as we looked at cumulative impacts,
7 you know, I can tell you that my city in that area is the
8 poster child for this environmental justice concern.

9 And so with that, we have before us, as I looked,
10 two definitions. I don't know what would preclude
11 us from, if this is going to be a study, if you will, to
12 having the two definitions work through. One that takes
13 into consideration socioeconomic concerns and one that
14 doesn't. Because we're going to be going for the next few
15 months or years. Deal with this. If these are working
16 definitions, why couldn't we take both? I mean why
17 wouldn't it be blind study?

18 Is there something -- I mean can we think about
19 that?

20 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Well,
21 let's continue the discussion.

22 Leonard, did --

23 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Yes. You
24 know, I kind of tie in with Rosario. I was raised in the
25 community of Compton, lived Los Angeles. I've lived in

1 environmental justice communities. I've seen a lot of the
2 problems. I've worked at -- I've been a part of a
3 community -- as a matter of fact, I came to Sacramento and
4 I came from the east side of Riverside, which is the worst
5 part of Riverside, because I chose to be into the
6 community.

7 And, you know, what I'm seeing now, we're seeing
8 a lot of words. I'm trying to study both sides. I see
9 one recommendation that was made after four months of
10 studies, public comment, you know, taking input. And I
11 see another definition that was done overnight. And both
12 have, you know, very good points.

13 What I'd like to suggest is -- and I think the
14 Secretary Lloyd said it is -- put in the word "where
15 applicable" for socioeconomic. Because there's some
16 socioeconomic situations that have nothing to do with
17 environmental, it has nothing to do with pollution. And
18 Cal EPA can only -- is called to do certain things. But
19 it's certain things that we cannot do. We can put that
20 word in there if -- and I'm talking to the community, not
21 the people who come into the community, say they represent
22 the community, then when everything's gone, they go back
23 to their pristine areas just as much as they claim that
24 government people, we go to our pristine areas.

25 I'm talking to the community. Do you want action

1 or do you want wording that just gives you warm and
2 fuzzies? I want you to think about that.

3 I think socioeconomic plays a part, so let's
4 identify that. Otherwise, we're going to have
5 conversations and conversations. And I know we've got
6 some beautiful pilot programs. Action. We're always
7 accused of inaction. But we're still stumbling over the
8 rules. We got to come to a decision and then get it out
9 the gate and put it to work. But let's not keep -- let's
10 not keep adding on.

11 So my recommendation is to put socioeconomic --
12 "where applicable," add those two words to the definition
13 that was brought up at yesterday's meeting.

14 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,
15 Leonard.

16 Mary-Ann.

17 DPR DIRECTOR WARMERDAM: I would like to build
18 off of what Leonard said. And instead of looking "where
19 applicable," I would like to suggest we -- "where data is
20 available," because I -- what I don't want to have happen
21 is that the lack of data is viewed as a reason not to move
22 forward. In some areas we have socioeconomic data that is
23 available, it has been collected and, to some extent,
24 analyzed and quantified, and in other areas we don't. So
25 I would like to not have it be a stumbling block to

1 preclude us from moving forward with some of our pilot
2 projects as a working definition.

3 CAL/EPA UNDERSECRETARY BRANHAM: So that language
4 in lieu of "where applicable" or "where applicable and
5 data are available"?

6 DPR DIRECTOR WARMERDAM: I would have inn lieu
7 of, "where data is available".

8 CAL/EPA UNDERSECRETARY BRANHAM: Other members?

9 Joan?

10 OEHHA DIRECTOR DENTON: I'd like to follow-up on
11 what Leonard was saying.

12 Throughout the whole discussion -- again I also
13 appreciate everyone coming and testifying. And it's a
14 very sobering issue, and I think that is reflected by
15 everyone's concentration and listening to the issue.

16 I think that we have to be careful in the
17 cumulative impacts not to promise what we cannot deliver.
18 That doesn't do anything. What it does do is it
19 destroys government credibility. And it also again
20 reinforces that no action is happening.

21 So I think -- I guess I would go back to what
22 Mary-Ann said. I think we cannot not put something in
23 here about socioeconomic. There's just -- to me it's
24 crystal clear that the definition without it ignores the
25 reality of socioeconomic factors.

1 But when we're talking about evaluating
2 cumulative impact, we're talking about reducing risk,
3 we're talking about quantitative kinds of things. And so
4 I think it would be important from my perspective to add
5 the "where data are available". And also I think the
6 definition allows the science to grow. We know that there
7 are more studies being done on socioeconomic. And I think
8 that this would be reflected as time goes by. But I think
9 we have to put something in there, but I think it would be
10 good to qualify it, that is, with a statement such as, you
11 know, "where data are available".

12 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,
13 Joan.

14 Nancy.

15 SWRCB MEMBER SUTLEY: I think that we -- I too
16 appreciate all the time and effort people have put into
17 this. And that everybody came today to repeat what they
18 went through yesterday with us and to inform us on the
19 discussion, I think the -- I think it's been said already,
20 but the -- you know, as I look at our pilot projects and
21 the other pilot projects, I mean it's clear that we are
22 going to be looking at the socioeconomic factors that
23 affect the communities that we're proposing these pilot
24 projects in. And given that this is supposed to be a
25 working definition for these pilot projects, I don't -- I

1 think we have to be clear in covering everything that we
2 intend to cover in those pilot projects.

3 And I think the suggestions for some qualifiers
4 or -- I think I agree with Mary-Ann with respect to trying
5 to be clear on, you know, giving ourselves some guidance
6 on data and what sort of, you know, rigor we should look
7 at these things. Because in my six years here, I have
8 never seen these agencies engaged in wild speculation.
9 And it's not in the nature of regulatory agencies to
10 engage in wild speculation. And so we need to look at the
11 available data. I think we're all intending to do that in
12 the pilot projects and we need to recognize that.

13 The other issue I wanted to just address quickly
14 with respect to the alternative definition, which I think
15 I'm prepared to support, is this issue about exposures
16 versus public health effects. And I think the state of
17 the science with respect to the links between exposures
18 and public health impacts is in some cases at a very early
19 stage, and that we really shouldn't ignore exposure data
20 even if there's not a clear and obvious scientifically
21 peer-reviewed link to a specific health outcome. And I
22 think that as part of the pilot projects and part of
23 trying to increase our own understanding that we need to
24 look at both exposures and public health effects.

25 So I'm prepared to support the Advisory

1 Committee's alternative definition with whatever
2 qualifiers on socioeconomic factors that folks want to
3 add.

4 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.
5 Catherine.

6 ARB EXECUTIVE OFFICER WITHERSPOON: Well, I agree
7 with a lot of what's been said. And I think we're all
8 talking about modifying the CEJAC recommendation from
9 yesterday and not the definition that has disappeared from
10 the screen.

11 Yeah, okay. But it might as well disappear
12 because we're all talking about the CEJAC one at this
13 point and modifications to it.

14 Like Joe Lyou, there is a comma missing after
15 "geographic areas," so that should be corrected.

16 And I think the modifiers are fine, whether it's
17 "data available" or "where applicable". But I still think
18 that we ought to as we're going forward distinguish
19 between what's quantifiable and what is not and be clear
20 about that, whether it's exposures or anything else, and
21 just say that clearly in our findings.

22 I also think that we as an agency should come up
23 with the list of socioeconomic factors we are going to
24 take into account, and maybe have a common list for all of
25 the pilot projects and, as necessary, additional factors

1 for specific pilots where they're warranted. Because it
2 was brought up several times today that drawing a line
3 matters. And we can make some educated scientific
4 judgments about which factors are pertinent to
5 environmental exposure and which may or may not be. And
6 that might alleviate a lot of the concerns that we've been
7 hearing. I wouldn't suggest we do that today. I think we
8 need to go away and think about it, look at our own
9 respective troves of medical data, and come back, you
10 know, internally and talk about what that short list
11 should be -- well, it doesn't have to be a short list --
12 but what that list of socioeconomic factors should be.

13 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

14 Were you throwing your name tag out there to get
15 attention?

16 DPR DIRECTOR WARMERDAM: Yes, I wanted your
17 attention, Mr. Undersecretary. I got it.

18 (Laughter.)

19 DPR DIRECTOR WARMERDAM: One of the things that
20 we might want to at least think about and perhaps bring
21 forward is one of our sister agencies, Department of
22 Health Services, I understand, is doing an environmental
23 health tracking exercise. And it may be useful for us, as
24 we try to grapple with what we're referring to in terms of
25 socioeconomic factors and how we're going to incorporate

1 that, to visit with or invite DHS to join us in this
2 exercise with respect to this particular component.

3 CAL/EPA DEPUTY SECRETARY DODUC: Actually that's
4 an excellent point. And I'm pleased to report that we do
5 have a meeting scheduled with DHS in Berkeley in I believe
6 two weeks to discuss that matter.

7 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Any other
8 comments?

9 Well, I think we have a pretty clear sense of the
10 group. And hopefully within a matter of a few seconds
11 we'll have some new language on the screen for everyone to
12 look at and see if that --

13 CAL/EPA DEPUTY SECRETARY DODUC: Adding the comma.

14 CAL/EPA UNDERSECRETARY BRANHAM: -- captures --

15 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: That's a
16 big comma.

17 (Thereupon an overhead presentation was
18 Presented as follows.)

19 CAL/EPA UNDERSECRETARY BRANHAM: Okay. That seems
20 to capture some of the comments.

21 Catherine, I guess to your question of
22 quantifying it doesn't necessarily --

23 ARB EXECUTIVE OFFICER WITHERSPOON: Well, that
24 would belong in the narrative that went along with this
25 definition, just like we had a narrative before, that we

1 try to be scrupulous about distinguishing the quantitative
2 from the qualitative.

3 CAL/EPA UNDERSECRETARY BRANHAM: Leonard.

4 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Just a
5 question. I want to make sure the group is clear. I mean
6 there's data available for everything. But are we going
7 to make sure that it's available -- that it's related to
8 environmental justice? I mean there's data -- there's a
9 whole lot of data for things that have nothing to do with
10 environmental justice.

11 I really want to keep everything environmentally
12 justice -- you know, environmental justice oriented.

13 ARB EXECUTIVE OFFICER WITHERSPOON: I think
14 that's a narrative issue too, because we were talking
15 about having to come up with a list of the socioeconomic
16 factors we would consider relevant sort of as a starting
17 point and then adjust that as we went through the
18 exercise.

19 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Okay.

20 SWRCB MEMBER SUTLEY: It would seem --

21 CAL/EPA UNDERSECRETARY BRANHAM: Sorry.

22 Go ahead, Nancy. I'm sorry.

23 SWRCB MEMBER SUTLEY: It would seem to that --
24 you know, Catherine's suggestion is a good one. I mean I
25 think we're looking at factors that affect the

1 susceptibility of populations to the harms or affects
2 associated with environmental exposures. So I think
3 that -- again, you know, I think it's not -- I don't think
4 we're likely to kind of wander off into things we can't do
5 anything about. At least I hope so.

6 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Yeah, we
7 were going to do that if we wouldn't have put the
8 qualifiers on there. So I just want to make sure of that.

9 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Rosario.

10 CIWMB CHAIRPERSON MARIN: So when and where will
11 we come up with which socioeconomic factors we're talking
12 about?

13 CAL/EPA UNDERSECRETARY BRANHAM: I think what
14 Catherine -- or what we suggested is that that should
15 occur as part of the pilot projects taking this language,
16 and then would identify the list. Catherine suggested
17 perhaps there should be a list that could be used in all
18 instances. I'm not sure whether there are -- each project
19 may have some different factors that should be considered
20 project by project. But it is in the beginning
21 implementation of the projects.

22 ARB EXECUTIVE OFFICER WITHERSPOON: Well, you
23 know, I hadn't thought it all the way through. But given
24 the comments we heard from Carol yesterday, this is a
25 legal body and so it needs to meet and confer in public

1 about what we're going to use for our list.

2 But I would suggest we take some public comment
3 on it, because this was so contentious yesterday. And
4 then the next round will be just as contentious. And so
5 we need to get some ideas from all stakeholders and then
6 try and refine it and then have a meeting where we come
7 together, and maybe just on that single subject quickly,
8 and make a decision.

9 CIWMB CHAIRPERSON MARIN: Yeah, I just think
10 that -- if we're going to move forward with this, I think
11 we'd really need to explore what is it that this body
12 means by which socioeconomic factors we're going to
13 include. I mean do we have a limited list? Is it a, you
14 know, catchall, anything that anybody could come up with?

15 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: That's what
16 I'm afraid of.

17 OEHHA DIRECTOR DENTON: There is a pre-existing
18 list out there, which takes everything from soup to nuts.
19 So it's not like we would have to brainstorm, you know,
20 from the get-go. So there is some information out there
21 which could provide the basis for being in or being out.
22 So we could just work from that -- from that list. And
23 since OEHHA --

24 CIWMB CHAIRPERSON MARIN: Wouldn't the Department
25 of Health Services help us with that as well, or not?

1 OEHHA DIRECTOR DENTON: No, I'm thinking more of
2 the national EJ effort, in which, you know, there's been a
3 whole laundry list of socioeconomic factors. Some are
4 appropriate and some are not to the issue.

5 DPR DIRECTOR WARMERDAM: We might also find that
6 some of our work already reflects to varying degrees socio
7 and economic factors that we might want to assess our own
8 internal staff for as we move through this exercise of
9 identifying what's most appropriate.

10 CAL/EPA UNDERSECRETARY BRANHAM: And I guess I'd
11 like to again suggest that we have the various pilots, as
12 they begin to form the local advisory groups and work with
13 the community, that they also bring back to this group
14 suggestions on what are the appropriate factors to be
15 considered in each instance.

16 CIWMB CHAIRPERSON MARIN: Because I think that in
17 that regard -- and maybe where applicable -- actually
18 that's where the Secretary was going -- you know, there
19 may be certain things that are really applicable to this
20 particular pilot project that may not be, you know, really
21 pertinent to any other project. And I don't know. Do not
22 ask me to come up with a particular one. But you see what
23 I'm saying? I think that that's maybe what his thinking
24 was, and I certainly could share that.

25 So not only economic factors where applicable --

1 socioeconomic where applicable and to the extent where
2 data are available.

3 CAL/EPA UNDERSECRETARY BRANHAM: Okay. So are
4 suggesting to add the words --

5 CIWMB CHAIRPERSON MARIN: Yes, I am suggesting.

6 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: That's a
7 brilliant idea. I like that one.

8 (Laughter.)

9 CAL/EPA UNDERSECRETARY BRANHAM: Any thoughts?

10 ARB EXECUTIVE OFFICER WITHERSPOON: I'm okay with
11 it.

12 CAL/EPA UNDERSECRETARY BRANHAM: Okay. So the
13 words "as applicable," comma or not will be added after --

14 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: So now we
15 don't have to worry about the narrative.

16 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Any
17 objections to that language?

18 So done.

19 Thank you.

20 Now, 10:30 having arrived, we're ready to move on
21 to the --

22 (Laughter.)

23 CAL/EPA UNDERSECRETARY BRANHAM: -- the next
24 agenda item, which is "precautionary approach" working
25 definition.

1 Staff presentation.

2 (Thereupon an overhead presentation was
3 Presented as follows.)

4 MR. SMITH: Hello. My name is Dmitri Smith. I'm
5 with the California Integrated Waste Management Board.
6 I'm here today to present the "precautionary approach"
7 definition.

8 As stated earlier, staff held four public
9 workshops to solicit comments, recommendations and
10 suggestions for precautionary approach.

11 --o0o--

12 MR. SMITH: To encourage discussion, staff
13 presented four existing definitions that were also
14 utilized as resources. Those definitions included the
15 U.S. Commission on Ocean Policy, San Francisco Board of
16 Supervisors, real declaration, Canadian definition, and
17 additionally we used the California Health and Safety Code
18 as a resource.

19 --o0o--

20 MR. SMITH: Following the workshops there was an
21 open public comment period to solicit additional
22 information and to encourage further public involvement.

23 Given that this is a working definition, the
24 pilot projects will allow us to explore the concept of
25 precautionary approach, which we will use for the

1 implementation, review and analysis of these projects to
2 better define the term.

3 Based on the review consideration of public
4 comments and resources acquired throughout the process,
5 staff developed the following proposed definition:

6 --o0o--

7 MR. SMITH: And I'll let you look at it as
8 opposed to reading it.

9 Afterwards staff revised this definition to
10 include the following:

11 I guess we don't have the revised definition.
12 Let me read it to you then.

13 Okay. We don't have the revised definition. So
14 I'll have to read it to you. I apologize for that.

15 CAL/EPA DEPUTY SECRETARY DODUC: We are waiting
16 for the Committee to give us the --

17 MR. SMITH: Pardon?

18 CAL/EPA UNDERSECRETARY BRANHAM: We have a
19 definition that's listed in the handout.

20 MR. SMITH: Right.

21 CAL/EPA DEPUTY SECRETARY DODUC: That's the
22 definition --

23 CAL/EPA UNDERSECRETARY BRANHAM: Was that the one
24 that was on the board?

25 MR. SMITH: Okay, yeah. That was the definition

1 I --

2 CAL/EPA UNDERSECRETARY BRANHAM: That's the one
3 that's before?

4 Right. I thought that was in the slide. So I
5 apologize.

6 Please keep in mind that this is a working
7 definition, which can be modified and refined, as is
8 applied and further explored in the pilot projects.

9 Once the definition is decided upon, we will
10 proceed to the next phase of the action plan, which
11 includes establishing inventory of where and how
12 precautionary approaches are used in Cal EPA environmental
13 programs and determine any obstacles that limit the
14 precautionary approaches.

15 At this time I would like to present a summary of
16 the public comments from yesterday's Advisory Committee.

17 I apologize if I wasn't able to capture all the
18 comments, but this is a summary of it. And if I didn't
19 capture everyone, I would someone -- anyone who I haven't
20 captured to come up front and please make sure your
21 comments are heard.

22 And I'll just read them off in bullet form:

23 Any type of harm is not acceptable.

24 And this is what I passed out earlier. So the
25 working group members have it, but the audience doesn't.

1 So I'll read it out and just make sure the webcast is
2 also -- can hear the comments from yesterday.

3 Number 1: Any type of harm is not acceptable.
4 Therefore, the word "serious" should be removed from the
5 definition.

6 Any implicit acknowledgement of trustee public
7 trust doctrine should be maid.

8 Cal EPA is responsible for keeping resources in
9 usable condition for the public.

10 Focus should be on alternatives.

11 Burden of proof should be shifted to proponent of
12 the project.

13 After "best available science," we should add
14 "other relevant information".

15 The definition should include the words "serious
16 and irreversible harm" and must be consistent with other
17 existing definitions.

18 The terms need to be clearer and better defined.

19 Clear and simple language should be used in the
20 definition.

21 The definition should be consistent with the
22 original recommendation of CEJAC.

23 And final comment was: What constitutes
24 reasonable?

25 That concludes my presentation. I guess at this

1 time we can open up to --

2 CAL/EPA UNDERSECRETARY BRANHAM: Any of the group
3 members have questions for Dmitri?

4 MR. SMITH: And I'm assuming that not all the
5 audience has the updated revised.

6 Okay.

7 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.

8 So, Barbara, are you representing the Advisory
9 Committee?

10 EJ ADVISORY COMMITTEE MEMBER LEE: Thank you, Mr.
11 Secretary.

12 Just to clarify, I'm speaking now on behalf of
13 the Committee reporting the Committee's deliberations, not
14 for myself.

15 CAL/EPA UNDERSECRETARY BRANHAM: You need to bring
16 hats when you do that.

17 EJ ADVISORY COMMITTEE MEMBER LEE: Yeah, many.

18 Okay. Interestingly enough, although this
19 particular definition I would say over the history of the
20 Committee's deliberations would be by far the more
21 controversial, the changes that the Committee would like
22 to offer to the staff-proposed definition in this case are
23 much more limited than were the changes we offered in the
24 case of cumulative impacts.

25 We did work from the proposed staff definition.

1 And there were three changes that we made to the proposed
2 staff definition.

3 Do working group members have a written copy of
4 the Committee's proposal?

5 Yes. Okay.

6 CAL/EPA DEPUTY SECRETARY DODUC: Yes. I'm sorry.
7 It's being passed to the audience too.

8 EJ ADVISORY COMMITTEE MEMBER LEE: Okay. The
9 first change is the insertion of the word "anticipatory"
10 before "action". So a precautionary approach means taking
11 anticipatory action.

12 And the committee made this change recognizing
13 that there were questions as to what type of action is
14 being considered as a precautionary approach. And we
15 wanted to clarify that this is action that's being taken
16 in anticipation of possible effects, not reactionary
17 action. And although there was initially some concern and
18 dialogue about inserting the word, ultimately all the
19 Committee members did support the insertion of that word.

20 The second change -- actually I'm going to do the
21 third change first because that was less controversial --
22 is the insertion after "best available science" of "and
23 other relevant information". So this would be taking
24 anticipatory action based upon the best available science
25 and other relevant information.

1 And this, again, goes to the question of making
2 use of the information that's available from communities
3 about the circumstances that exist within the communities
4 and that that may not necessarily be scientific
5 information, but may be very relevant and important to
6 consider.

7 So there was discussion of this. The business
8 community did have concerns about including "and other
9 relevant information," being uncertain as to what sorts of
10 information would be included.

11 The third and most contentious change was the
12 removal of the word "serious" before "harm". A reasonable
13 threat of serious harm is what the staff proposed. The
14 Committee removed "serious".

15 And the definition that the Committee would
16 propose then is taking anticipatory action to protect
17 public health or the environment if a reasonable threat of
18 harm exists based upon the best available science and
19 other information, even if absolute and undisputed
20 scientific evidence is not available to assess the exact
21 nature and extent of the risk.

22 The reason that we removed the qualifier
23 "serious" is because a lot of testimony has been heard
24 about what one person considers serious versus what
25 another person considers serious. We believe that it is

1 important to review the seriousness of the potential harm,
2 the extent to which it might be irreversible and a number
3 of other factors in determining what kind of action is
4 appropriate. But there may be simple actions that could
5 be taken that could prevent any harm from occurring, and
6 there would be little objection to those actions being
7 taken. And we didn't want that arena of decision making
8 pulled out of the purview of your definition of
9 "precautionary approach".

10 That said, removal of the term "serious" is a
11 significant issue for the business community.

12 Their preferred approach would be to use "serious
13 and irreversible" as qualifiers for "harm". And they cite
14 as the basis for that preference consistency with other
15 definitions that have been used in other arenas. The vote
16 on this again had the majority of the Committee going one
17 way and the business community not in favor of the changes
18 made to this definition.

19 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,
20 Barbara.

21 Any questions for Barbara?

22 Mary-Ann.

23 EJ ADVISORY COMMITTEE MEMBER LEE: Oh, actually
24 there's one other thing I would like to say and, that is,
25 again, I know there was some -- perhaps a misperception in

1 the previous discussion about the extent of time that the
2 CEJAC debated terms like "cumulative impacts" and a
3 "precautionary approach". There's two years of Committee
4 meetings that went in to the recommendations the Committee
5 originally made to this body on those subjects. And I
6 would like to call up for you a statement that the entire
7 committee supported in our recommendations report to you
8 on this subject. And, that is, that Committee members
9 believe that it is not necessary or appropriate to wait
10 for actual measurable harm to public health or the
11 environment before evaluating alternatives that can
12 prevent or minimize harm.

13 DPR DIRECTOR WARMERDAM: My apologies.

14 Thank you for your report. I may have missed the
15 explanation if you've already given it. But when the
16 discussion centered on the words "and other relevant
17 information," what was the thinking of the Committee as to
18 what that might include?

19 EJ ADVISORY COMMITTEE MEMBER LEE: It's very much
20 the same kind of debate that has gone into the discussion
21 of what sorts of factors ought to be considered as part of
22 a cumulative impacts analysis.

23 In this particular instance the Committee
24 believes there is a wealth of information available within
25 communities about the circumstances that exist within the

1 communities that they are faced with, their own
2 observations and experiences, as well as other
3 non-peer-reviewed scientific quantifiable information that
4 nonetheless can inform decision making and should be part
5 of any forward-looking consideration of the problem and
6 how to respond to it.

7 I should add that, you know, over the years as
8 the Committee discussed this issue, you know, there are
9 areas where everybody feels fairly comfortable. You know,
10 the more well understood the potential harm is, the better
11 characterized and the less extreme the action
12 contemplated, the greater the consensus is that it's an
13 appropriate decision.

14 For example, if you have information that
15 exposure to arsenic is harmful to children, and
16 pressure-treated lumber in playground equipment contained
17 arsenic, it would be appropriate to no longer use
18 arsenic-containing pressure-treated lumber in playground
19 equipment that children will be climbing on and putting
20 their hands in their mouth. That is precautionary action
21 to go ahead and do that. But it is a well-characterized
22 problem and it is a not terribly extreme response.

23 The farther we get from well characterized or the
24 more extreme the responses perceive to be, the less
25 consensus the Committee was able to arrive at on it.

1 But there was general agreement that we all use
2 precaution in our daily lives. I think Dr. Clark has put
3 it very plainly for all of us, in terms of the decisions
4 we make about stepping into traffic and about when we see
5 suspicious-looking characters approaching us on a dark
6 street at night, whether we wait to see if they're
7 actually going to harm us or whether we take preventive
8 action. We do. We do those sorts of things all the time.

9 The challenge for this group and as you take your
10 action plan forward is going to be how you employ
11 precaution, how you evaluate the threats of harm and what
12 actions you contemplate.

13 CAL/EPA UNDERSECRETARY BRANHAM: Rosario.

14 CIWMB CHAIRPERSON MARIN: Ms. Lee, help me --
15 walk me to -- if we were to have this definition, what
16 you're suggesting, provide me with something that might be
17 an anticipatory action that you may think -- you can come
18 up with something that -- some kind of an example, and
19 where then you would have other relevant information that
20 would cause us to have an anticipatory action. Help me
21 understand what is it that you -- what you might
22 understand -- what is it that is driving this? What is it
23 that you are suggesting that when somebody is looking at
24 this, they would say, well, this would be an anticipatory
25 action given some other relevant information?

1 EJ ADVISORY COMMITTEE MEMBER LEE: Okay.

2 CIWMB CHAIRPERSON MARIN: For EJ purposes.

3 EJ ADVISORY COMMITTEE MEMBER LEE: I think what
4 I'd like to do is pick a simpler case, all right? And I'm
5 going to personalize it a little bit because I don't want
6 to mischaracterize what Committee members would say in
7 response to your question. All right?

8 But I'm a parent. If my son started using a new
9 deodorant and broke out in a rash, I would tell him to
10 stop using the deodorant, and then we would check to see
11 if there was something in the deodorant that might be
12 causing the rash.

13 CIWMB CHAIRPERSON MARIN: Okay. But that's not
14 EJ related.

15 EJ ADVISORY COMMITTEE MEMBER LEE: It's not EJ,
16 but it is precautionary.

17 CIWMB CHAIRPERSON MARIN: This is what we're
18 going to use, EJ, right?

19 EJ ADVISORY COMMITTEE MEMBER LEE: Right.

20 CIWMB CHAIRPERSON MARIN: So help me. I
21 understand that. I understand the arsenic.

22 For EJ purposes, if we're going to use this,
23 explain to me what might be "and other relevant
24 information" that might be used so that we would need to
25 have some anticipatory action.

1 EJ ADVISORY COMMITTEE MEMBER LEE: Okay. You
2 might have a community that perceives that they are
3 experiencing a significant number of health effects, let's
4 say -- bloody noses was mentioned earlier, okay -- lots of
5 people experiencing bloody noses. They don't know why,
6 but they're worried about it. Precautionary approach
7 would say that we would take steps to find out and prevent
8 those threats of harm without making the community prove
9 before we look into it that they are tied to a specific
10 event.

11 CIWMB CHAIRPERSON MARIN: So what would be the
12 action that would be taken, the anticipatory action?

13 EJ ADVISORY COMMITTEE MEMBER LEE: Realistically
14 a regulatory agency is going to investigate first. And
15 based on what the investigation turns up, they'll decide
16 what actions should proceed from that.

17 CIWMB CHAIRPERSON MARIN: But if we were using
18 this thing, what is that the agency is going to
19 investigate in so far as other relevant information?

20 EJ ADVISORY COMMITTEE MEMBER LEE: Well, the
21 other relevant information you would initially be
22 considering is the information provided by the community
23 that it is not scientific in nature. It is based on their
24 observations and experiences. But it would be enough,
25 even in the absence of scientific data linking it to

1 something, for the agency to say, "We should look into
2 that."

3 ARB EXECUTIVE OFFICER WITHERSPOON: Rosario, an
4 example that comes to mind in the waste sector might be
5 that people do not want incinerators around them. And
6 there is contention over whether the data is conclusive or
7 not about incinerators when they're properly managed and
8 with after-treatment do or don't create harm because
9 dioxin is present in the exhaust gases when
10 chlorine-containing papers and other plastics are burnt.
11 So one could on a precautionary basis decide you weren't
12 going to put that incinerator anywhere near where the
13 plume might touch residences because it was not known, but
14 because toxic chemicals were present in the exhaust gas or
15 could be present in the exhaust gas or maintenance might
16 be perfectly maintained, that you would not put the
17 incinerator there.

18 That would be an example.

19 CIWMB CHAIRPERSON MARIN: But that would not
20 be -- I mean you wouldn't do that -- you would do that
21 even without the definition.

22 ARB EXECUTIVE OFFICER WITHERSPOON: Well, I don't
23 know. I mean it's been an issue in California for years,
24 for 20 years at least, all the time I've been in air
25 quality, what the right conclusion about incinerators is

1 and whether or not you know enough about the exhaust gases
2 or have enough technical know-how to control all the
3 conditions in the fuel and keep it at the right
4 temperature and the right dryness and such to combust
5 properly. And so that's one of -- just trying to
6 translate into terms that the Waste Board would
7 understand, that's the one that popped into my head of
8 what might be a precautionary choice for you.

9 EJ ADVISORY COMMITTEE MEMBER LEE: I really want
10 to underscore the Committee understands that there is
11 precaution used. It's inherent in all of these
12 environmental protection programs. I think what the
13 community members have been seeking is an explicit
14 recognition that a precautionary approach is appropriate
15 and they are pushing for additional precaution.

16 CIWMB CHAIRPERSON MARIN: Well, I just
17 don't know. I don't -- I just fail to see how this
18 particular definition is going to prevent that from
19 happening.

20 ARB EXECUTIVE OFFICER WITHERSPOON: What happens
21 now sometimes is if you can't prove -- if you have a
22 reasonable enough assurance you can control it, you go
23 ahead and issue the permit. And then under a
24 precautionary approach, you might not.

25 CIWMB CHAIRPERSON MARIN: Yeah, but that's not

1 for us. It's the ARB that does that.

2 ARB EXECUTIVE OFFICER WITHERSPOON: Oh, it's
3 actually the local air district. It's Barry or Barbara.

4 CAL/EPA UNDERSECRETARY BRANHAM: Hang on, Barry.
5 You'll get your chance.

6 Okay. Any other questions of Barbara?

7 Okay. Thank you.

8 Cindy.

9 Cindy Tuck. And after Cindy we'll take a short
10 break for the reporter.

11 MS. TUCK: I appreciate the opportunity to go
12 right after Barbara because I do want to clarify a couple
13 points that she made.

14 Cindy Tuck with the California Council for
15 Environmental and Economic Balance.

16 First of all it's a starting point. CCEEB agrees
17 with the other stakeholders and with the Committee that
18 it's important for Cal EPA to use a precautionary
19 approach. We think the Agency does use a precautionary
20 approach now, but that certainly there's room to look for
21 where there's more opportunities to use precaution. So I
22 think that's -- you know, there's a starting point where
23 we're all together on that.

24 Staff obviously, as Dmitri reported, reviewed
25 various definitions. And I'd like -- I have a handout

1 which I also distributed at the Committee meeting
2 yesterday.

3 While that's coming around, maybe what I should
4 clarify is relative to some of the statements from
5 yesterday. And I said at the meeting yesterday that CCEEB
6 would be okay with the word "anticipatory". And I'll
7 stick by my word. I mean that's what we said. So we're
8 okay with that change.

9 And I also said at the meeting yesterday that I
10 thought it was appropriate to consider other relevant
11 information in addition to the best available science.
12 You do that already, and that's -- we wouldn't say don't
13 look at information that's relevant. So I said yesterday,
14 you know, into the mike, that we're okay with that part.

15 The one concern that we did have is the
16 Committee's proposal to delete the word "serious". So I
17 think that's what I need to explain, why we think it's
18 important to have that word in the language. And we would
19 suggest -- as the handout has at the top, we would suggest
20 adding the words "or irreversible" in addition to
21 "serious". But the key word is "serious".

22 And you can see from the handout that four other
23 organizations have adopted statements or definitions in
24 this area. They include the United Nations, with the Rio
25 declaration; the Government of Canada; the U.S. Commission

1 on Ocean Policy; and even the City and County of San
2 Francisco. All of these entities use the standard of
3 "serious" or "irreversible" to qualify "harm".

4 And we think it's good to be consistent with
5 those definitions. And we don't think this limits what
6 Cal EPA has been doing all along.

7 Now, you know, why do we think it makes sense to
8 have the word "serious" in there? And we appreciate that
9 staff added it in the February 4th draft. Obviously when
10 there is absolute and undisputed scientific evidence that
11 there's a threat of serious harm, the Agency needs to act.
12 And you do that now. When there's complete solid
13 information, you act.

14 And what we're talking about here is a situation
15 where there's less than complete information, when you do
16 take precautionary action. And this Agency and the state,
17 there's limited resources. So we think it makes sense
18 when you're talking about taking precautionary action,
19 where you have less than complete information, to focus
20 those precautionary efforts on situations where there is a
21 reasonable threat of serious harm. If it's not a
22 reasonable threat of serious harm, why divert resources
23 from situations where there is that kind of serious threat
24 or when there's a really known established threat. And
25 there are a lot of those kind of problems that your BDOs

1 deal with every day.

2 So that's why we think it's important to include
3 "serious" in there. We'd like to have consistency with
4 these other organizations, serious or irreversible, but we
5 certainly think it's important to have the word "serious"
6 in there. And that's the only difference we had from the
7 Advisory Committee. CCEEB would support the other two
8 changes that the Committee suggested.

9 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.

10 Any questions of Cindy?

11 Nancy.

12 SWRCB MEMBER SUTLEY: Question.

13 In Barbara's description -- I'm trying to look at
14 this in terms of how we would use this definition as
15 guidance. And I guess a question just -- or a response
16 from you on -- I think what Barbara said is that taking
17 out "serious" -- you know, you would anticipate that
18 regulators would sort of do things proportionately. So
19 that if it's -- if there's some disagreement on whether
20 it's serious or not, that the level of response would be
21 commensurate with the level of harm.

22 Does that cause you heartburn or -- maybe just
23 give you a chance to respond to that.

24 MS. TUCK: Well, we certainly agree with what you
25 said. And my understanding is that Cal EPA plans to come

1 out -- a next step on this is to develop guidance on "use
2 a precautionary approach". And having that balance where
3 you look at having a measured action, if you have more
4 information about a greater degree of a serious threat of
5 harm, that takes a stronger action. And, you know, if
6 it's not, then that's a lesser action. So it's a
7 balancing, it's a degree. We agree with that.

8 But as for when you decide to take regulatory
9 action, we don't think -- when there's so many problems
10 with known information and threats of -- you know, where
11 there's a reasonable threat of serious harm, do you need
12 to be taking regulatory action on things where there's
13 not? You may want to be investigating those. But do you
14 want to take precautionary action? We think, you know, it
15 would be better to get more information for those
16 situations.

17 SWRCB MEMBER SUTLEY: I guess -- I mean, you
18 know, I'm willing to -- I want to hear, you know, the
19 other comments and I certainly understand the concern.
20 Although I think if we're going to sort of -- say this is
21 an extension of what we do now and that -- and I think
22 that's true, that in all of our programs we can point to
23 how there is an amount of precaution in them. You know, I
24 just really want to be sure we weren't adopting a
25 definition that knocked out half of our existing programs

1 because there's disagreement about whether a harm is
2 serious or not, since we all live with all sorts of
3 mandates that make us do things -- you know, do things
4 under the current system.

5 MS. TUCK: Right. And we'd be good to have on
6 the record that the word "serious" would not diminish what
7 you've already -- or in any way limit what you've been
8 doing before.

9 CAL/EPA UNDERSECRETARY BRANHAM: Mary-Ann.

10 DPR DIRECTOR WARMERDAM: Just a question with
11 respect to the word "serious".

12 Has CCEEB or any of the other four referenced
13 entities defined "serious"?

14 MS. TUCK: That's a good question. I'm not aware
15 that they have. And that's -- when we started with the
16 original committee in this process, part of the reason I
17 think business had little difficulty getting on board --
18 and the whole discussion was that there aren't definitions
19 criteria. We like to know what things mean in the real
20 world, exactly as you were asking. But there hasn't been
21 that. But we're sort of going into this on faith. But
22 the development of the guidelines will be a very important
23 exercise to help maybe clarify that.

24 ARB EXECUTIVE OFFICER WITHERSPOON: Jim?

25 CAL/EPA UNDERSECRETARY BRANHAM: Yes, Catherine.

1 ARB EXECUTIVE OFFICER WITHERSPOON: Yesterday
2 there was testimony that these other organizations which
3 are using "serious and irreversible" are actually
4 modifying the degree of action they're going to take.

5 MS. TUCK: It would be "serious or irreversible".

6 ARB EXECUTIVE OFFICER WITHERSPOON: Yeah, "or
7 irreversible".

8 MS. TUCK: Not "and".

9 ARB EXECUTIVE OFFICER WITHERSPOON: And so that
10 it wasn't their definition of "precautionary principle,"
11 but it was their definition or verbiage related to what
12 actions should be taken? Was that a correct statement
13 from Joe Lyou, or do you know where these fit contextually
14 in the broader policies of these four agencies?

15 MS. TUCK: I was there when Joe said that. And I
16 had never heard that. Just looking at the words, it's
17 qualifying the threat of harm, not the actions to be
18 taken. So I was sort of mystified by that. I don't know,
19 maybe Joe can speak more to that. But that wouldn't be my
20 understanding just given the way it's written.

21 EJ ADVISORY COMMITTEE MEMBER LYOU: I could speak
22 to it now or I can wait for my --

23 CAL/EPA UNDERSECRETARY BRANHAM: Why don't we wait
24 till Joe comes up.

25 Any other questions of Cindy?

1 Okay. We're going to take a ten-minute break.

2 We'll come back at 3:25.

3 (Thereupon a recess was taken.)

4 CAL/EPA UNDERSECRETARY BRANHAM: Okay. It looks
5 like we've got at least a quorum of our group here.

6 We're going to go through the public comments on
7 the precautionary approach definition and make a decision
8 there. We will not have time today to take up public
9 participation recommendation. We'll have to kind of at
10 the end of the meeting figure out how we're going to go
11 forward there. It is still our goal and our hope that we
12 will be able to address the pilot project proposals before
13 we conclude here today.

14 So with that, we'll begin -- or continue public
15 comment.

16 And we've got Rey Leon and Rosie Solorzano.

17 Rosie's sign is here, but I don't see her.

18 Bill Magavern.

19 I know Bill's here.

20 Come on up, Bill.

21 MR. MAGAVERN: Thanks. Good afternoon. Bill
22 Magavern with Sierra Club.

23 I want to thank the Committee for moving forward
24 with this. And I think it really speaks well of the
25 process that this environmental justice process has moved

1 forward through two governors and now three secretaries.
2 And we hope that you will move forward with the action
3 plan.

4 And I think it's also a great thing that so many
5 people have come to speak today, particularly the young
6 people who have spoken. And I hope they'll continue to
7 speak out.

8 Sierra Club does support the CEJAC definition of
9 "precautionary approach" and think that it's integral to
10 environmental justice.

11 I've been thinking about an instance where we
12 really wish we'd used a precautionary approach, which was
13 introduction of MTBE into our gasoline. And if you think
14 about the look-before-you-leap approach, it really would
15 have made a lot of sense there. And I wonder if the
16 requirement had been for "serious harm," people would have
17 objected, "Well, you know, it's not a known carcinogen.
18 Is the harm really serious?" And, you know, clearly
19 looking back, no one would disagree that the harm was
20 serious. But if the discussion had been had 15 years ago,
21 I think if we used this definition, clearly we would not
22 have gone forward with putting MTBE into the fuel.

23 So we very much support the CEJAC definition and
24 support the recommendations that the Advisory Committee
25 had made.

1 And since I have to go to a 4 o'clock meeting,
2 the Undersecretary has graciously allowed me to comment on
3 pilot projects before I go.

4 We do want the pilot projects to move forward.
5 We support the action plan. We particularly support the
6 pilot projects that are really community driven. And
7 yesterday I raised some questions about whether the New
8 River Project really was community driven. Since then I
9 have heard from a number of advocates that are close to
10 that proposal. And I now am convinced that that is
11 genuinely a community-driven project, and so we would be
12 supportive of that moving forward along with the others.

13 One comment we had made on the pesticide proposal
14 is that it -- look at all pathways of contamination, not
15 just air. The air pathway clearly is important, but we
16 would also want to look at our pesticides getting into
17 dirt, that is then getting into children's mouths. And so
18 we would ask that you consider that pathway also.

19 And, finally, just want to ask the Committee to
20 look at this from the perspective of not only taking --
21 studying what's happening in regards to environmental
22 justice. But how you're really going to be measured is by
23 taking action to reduce the impacts on the communities.
24 So it's important that we study and get information, but
25 let's keep our eyes on the prize. What we really want to

1 do here is to make sure that these communities are less
2 impacted, as they have been disproportionately, by
3 pollution.

4 Thank you.

5 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,
6 Bill.

7 I am going to modify our approach here just a
8 little bit. Bill allowed a perfect segue for this. I
9 know a number of folks have got some scheduling and
10 traveling challenges. So what we are going to do is we're
11 going to go ahead and open the public comment on both
12 "precautionary approach" as well as "pilot project". So
13 any of you that wish to comment on both should do so at
14 this point in time. And I think that's okay with our
15 attorneys.

16 So with that, we'll continue.

17 Cynthia Babich, followed by Ron Reed.

18 MS. BABICH: Cynthia Babich, Del Amo Action
19 Committee.

20 I just wanted to say, when I kind of started
21 engaging in these processes, it wasn't like I went to
22 college and thought, "Oh, gee, what are all the options I
23 can do with my life?" It was more like I moved into a
24 situation where action needed to be taken. And since then
25 I and my colleagues have tried to be very active. And

1 there are not too many things that are more important than
2 being cautious and pre-cautious. A lot of us like to call
3 it "better safe than sorry."

4 Many times these chemicals we find that impact
5 us, you can't take it away. I use DDT as an example a lot
6 because that's the chemical I know, and I don't want to
7 ever be discredited by saying something of which I don't
8 know what I'm speaking.

9 And I remember, we had the first clinic of its
10 kind in the nation, sponsored by the CDC, come to our
11 community to look at us. And we fought for four years for
12 treatment. We were getting diagnosed for free. But we
13 thought, "Well, what good is knowing if you're not going
14 to treat us?" It took four years to find out there is no
15 treatment.

16 So, again, it's better to be safe than sorry.

17 And then another term I would always hear people
18 saying is "We don't want to wait for the bodies to line up
19 in the streets," or if Paul's in the street bleeding, do
20 you fight over who's going to take Paul to the hospital or
21 do you stop to bleeding?

22 And yesterday I mentioned that once in a while
23 I'm lucky enough to get to go talk to students, which I
24 really love doing. It's like planting little seeds. And
25 hopefully they'll be encouraged one day to take on the

1 burdens that we're taking on today.

2 And we've been very lucky that there have been
3 some documentaries done on our community. And I like to
4 show them so that they're just not hearing my words,
5 they're hearing from a collective. Kind of like we're
6 doing here, we're listening to different stakeholders.

7 And the last time I did this was about two months
8 ago. In listening to the testimony of the people from the
9 community, I realized five of those people are no longer
10 with us anymore. And we know that things happen and
11 people get cancer and it could be from a lot of things.
12 But we certainly know that in some of these communities
13 there's things that we can do to stop that. And I
14 think -- I really think yesterday was a really long day
15 for a lot of people, and I know it's a long day for you to
16 be sitting here and listening, and it's just so
17 appreciated.

18 But we support wholeheartedly the definition that
19 we came up with yesterday. We've been working on this for
20 so long. And to be vague and have people determine what's
21 serious to them and what's serious to that person and
22 those kind of terminologies are almost a slap in the face.
23 It's like somebody telling you that you're health isn't as
24 important as something else. And I just really think that
25 whenever we can be cautious, that we need to be dictated

1 by common sense. If you know you stick a bobby pin in the
2 electrical socket and it's going to shock you, do you just
3 keep doing it? No. If we have these impacts in our
4 community, do you keep bringing in more? No.

5 One of the things we're trying to do in our
6 community is get people relocated out of the area, because
7 we realize we're not going to make the refinery be able to
8 move. We're not going to get the pure Benzene floating on
9 our groundwater taken care of. We're -- you know, we're
10 not going to get the two Super Fund sites cleaned up
11 because all they'll do is dig it up and take it to
12 somebody else's community like Port Arthur, Texas, and
13 burn it in an incinerator.

14 So there's precautions that we can take. And I
15 just really want to support that we do that, but that we
16 have the strongest language possible to do that, and we
17 don't leave things up to the determination -- maybe
18 someone who's looking at your situation is really a good
19 person and they think about all these other things, and
20 maybe they're a person who will only follow what it says
21 on the paper, that's in their job description.

22 So I just really want to support this definition
23 and let people know that you can't always take back the
24 harm that's given to us. So let's be cautious. Let's be
25 better safe than sorry.

1 Thank you.

2 (Applause.)

3 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

4 Ron Reed, followed by Tim Shestek.

5 MR. REED: Thank you.

6 My name's Ron Reed. I'm a Karuk Tribal member.

7 I represent the second largest tribe in California.

8 And I'd like to say -- I'd like to start this off
9 by -- I appreciate the effort by Cal EPA by including
10 tribes in this environmental justice program. I think
11 it's a daunting effort that you guys are taking on, but
12 it's one that's necessary nonetheless.

13 The reason why I'm here today is I'm involved in
14 the hydroelectric relicensing of the Klamath River. It
15 involves six dams on the Klamath River. In the process of
16 those dams being put up, it extirpated the spring Salmon
17 Chinook run of the Klamath River Basin above the Trinity
18 River.

19 And associated with that is human right issues,
20 our religion. Our religion is very -- fish is a very
21 strong component in our religion. Right now the first
22 Salmon ceremony is not being held because the lack of
23 spring Chinook Salmon. And that is the management process
24 that the tribes -- indigenous management process that the
25 tribes -- that's how they manage the resource, the Salmon,

1 you know.

2 And I guess that -- and that's the reason why I'm
3 here, because during the first relicensing process
4 PacifiCorps held three years of meetings. And a lot of my
5 issues fell on deaf ears. And in that process we decided
6 to take this bull by the horns and we did an ultra-diet
7 report, and we found out some astonishing information.
8 Something in the interest of time I won't go into today.
9 But it has gained a lot of energy.

10 Some of the issues I would like to talk to you
11 today -- well, let me back up one step. And the reason
12 why I'm here and the reason why I'm so impassioned about
13 this subject is due to the fact that within the last year
14 and a half I've lost three immediate family members. And
15 it's due to ill health and I believe that's associated to
16 not having Salmon in our diet. One was my mother, one was
17 my auntie, and one was my first cousin.

18 And, sure, you know, things happen, you know,
19 people die of certain reasons. But the fact that these
20 three people I'm talking about were full blooded Karuk
21 Indians, and the most important factor is that there is
22 now nine full blooded Karuk Indians left on the face of
23 the earth today. And that's a dramatic impact. What that
24 really means on a personal basis is that now I become an
25 elder at -- I won't say a tender age, but -- I'll say a

1 tender age.

2 (Laughter.)

3 CIWMB CHAIRPERSON MARIN: We all agree you're
4 tender.

5 MR. REED: Thank you. Thank you for your
6 understanding. Thank you.

7 You know, so that has a profound effect on Karuk
8 way of life. And, you know, again, not to get into it,
9 but really what the Karuk way of life is basically is that
10 the elders teach our children, our babies the ways of life
11 while back in the days when I was out fishing, hunting,
12 gathering, those things like that. The children stayed
13 with the elders to learn who we are, what we stand for,
14 and basically learn indian law.

15 And right now I think that's a dramatic effect on
16 the way our children are being raised today.

17 Just let me -- I'll jump over that, and I'll get
18 back to it or not, whatever.

19 But I guess -- you know, in this process, you
20 know, the federal government took a cursory look at social
21 issues, cultural issues, religious issues, socioeconomic
22 impacts and health issues. You know, they basically said
23 that, you know, that's -- "Where you live is beyond the
24 area of potential effect," the APE.

25 And so, therefore, they did not do one study

1 about the impacts to the fishery below this hydroelectric
2 project. As I mentioned earlier, that has a devastating
3 stating effect to the fisheries.

4 For instance, on any given year at our one single
5 fishery we can catch any where from 3 -- from 2 to 3,000
6 fish in this particular fishery. Last year we caught less
7 than 100 fish. Representing the second largest tribe in
8 California, with over 3300 tribal members, you don't need
9 to be a mathematician to figure out the impacts on the
10 people.

11 So I can just maybe just go into some of these
12 little issues real quick.

13 The health issue, you know, it's our diet. You
14 know, the Salmon has a big part on not only our religion
15 but also our health. We had a lot of fish in the spring
16 run, was -- was the fish run that we depending on for
17 subsistence purposes.

18 You know, then a lot of the toxicants that are in
19 the river that are being overlooked. There's an
20 irrigation project above the hydroelectric project. So
21 what you have is a nutrient-loaded water coming into
22 shallow reservoirs. In those shallow reservoirs these
23 polluted waters just essentially bake and create big alga
24 blooms, alga mats and problems associated with shallow
25 reservoirs that pour down into the river that come down

1 into our area, which is below the dams.

2 Some of the social issues that we're looking at
3 is the family structure, you know. We have -- we're in
4 modern times now and we know what poverty causes, you
5 know, all the social ills that are associated with
6 poverty. And this ultra-diet report really articulates
7 what our issues are. And I -- and, again, I won't go into
8 them. But we have a tremendous amount of issues that the
9 Karuk people are looking at today.

10 As far as our culture, I can just -- I'll say one
11 word: Disenfranchise. The Karuk people are
12 disenfranchised. We do not -- we're not able to go out --
13 for instance, I'm not able to go teach my children the
14 cultural values because they're denied access to these
15 resources that I'm talking about. There's upland
16 management issues. But, more importantly -- or for this
17 forum right here we're talking about the Klamath River and
18 the resources on the Klamath River. And that's Salmon.
19 An all the basket treatment materials along the riparian
20 corridor of the Klamath River are associated with these
21 impacts. And the fact that PacifiCorps or Scottish
22 Power -- and now it's up to the FERC relicensing
23 process -- the FERC, the commission to decide what those
24 impacts are. And right now to this point I feel like a
25 lot my issues have been falling on deaf ears.

1 Socioeconomics is huge. The unemployment rate
2 for the Karuk people -- and I don't think you can
3 articulate this issue in modern -- in the modern way. I
4 think it's something like -- I think we're 26 percent
5 unemployed. But that's people that are able to collect
6 unemployment benefits. It's not, you know -- I had this
7 person look at it a different way. People that are able
8 to work from 18 to 65, what is our unemployment rate
9 there? It's something -- then it drops way -- you know,
10 it shoots way up. I'm not sure exactly what that is. But
11 there's a lot of issues that are skating under the radar
12 screen.

13 And, you know -- and so I think there's a
14 weighted value that isn't being looked at here, you know.
15 You have all these economic concerns that drives
16 management agencies on these decisions they make. And one
17 of the -- some of the issues are -- you know, some of the
18 issues that are supported by the federal government is
19 ag -- corporate agriculture is supported by the federal
20 government. Hydroelectric energy is supported by the
21 federal government. Mining -- large scale mining is
22 supported by the federal government. And I believe that
23 what isn't supported by the federal government is the
24 impacts of all these management decisions on tribal folks.
25 And I think that's my drive here, is to bring up tribal

1 issues in an environmental justice forum, that has been
2 unprecedented to this point. And correct me if I'm wrong.

3 You know, so basically I'm just asking this
4 Board, the Committee or this process to weigh in our favor
5 the -- for the sake of the people that live along the
6 Klamath River. And because our issues have so far skated
7 under the radar screen and -- I cannot articulate the
8 impacts. I cannot articulate the impacts of catching less
9 than 100 fish trying to support thousands of people. I
10 mean it's a devastating impact on not only our culture,
11 but it's our way of life. It's what the creator gave
12 us -- he gave it to us to manage properly. And now we're
13 unable to get our voice in a management world. And
14 hopefully this process right here will enable tribal
15 voices to be heard in a way they've never been heard
16 before.

17 You know, so -- I guess I mentioned an ultra-diet
18 report that we have out there has gained a lot of energy.
19 But because my voice has not been heard in this process
20 I'm talking about, the hydroelectric relicensing process,
21 I've got -- I have resources to do subsequent studies.
22 And those subsequent studies are freedom of religion study
23 on the Karuk Tribe and the socioeconomic issues that the
24 Karuk Tribe faces. And I realize that there's other
25 tribes involved here. But I'm sure that they have similar

1 issues, and I think that -- you know, I think it will do
2 good for people on the river to get engaged with this
3 issue here and to kind of let this healing process begin.
4 Because it's been long overdue and we're at a point right
5 now that, like I said, we have nine full blooded Karuk
6 members left, you know. And I think we need to catch our
7 culture before it goes away. And I believe that this is
8 the way to do it. And I'm being proactive. And when I
9 first started coming to these meetings, I didn't know what
10 I was getting into, and I still don't. But what I am
11 doing is building a platform, a foundation step by step to
12 articulate the issues of the Karuk people and to move
13 forward in a direction of healing, you know.

14 So I look forward to -- and hopefully this pilot
15 project will come about and we'll be able to do some
16 positives things for the tribal people, because it's been
17 long overdue.

18 And I believe that we have a lot of answers to
19 the issues in the Klamath River Basin. Fish in the
20 Klamath River Basin are at an all-time low. And what
21 those fish evolved through -- or evolved around throughout
22 time is indigenous management practices. And that's
23 something I really want to get into. Obviously not today,
24 but at some other point. And I think the Karuk tribe has
25 a lot to offer you know, public trust or public -- it's

1 public trust. And I think that we have a lot to offer.
2 And I really appreciate the time. And I apologize for
3 kind of coming in and butting in and pushing everybody
4 else to the back. Like a Salmon does, a bigger Salmon
5 coming, he kinds of pushes everything to the back, you
6 know. So I didn't -- that's not my intention. But I have
7 a six-hour drive. And I really appreciate the Board, the
8 Commission -- I'm not even sure who I'm talking to here.
9 But I really appreciate you being able to cut out a place
10 on your very busy schedule.

11 And, you know, I would like to talk about this
12 more. I've talked to Adrian and some of his colleagues.
13 And I really want to get engaged in this issue and start
14 moving forward in a proactive way so -- you know, so we
15 can starting building trust with one another. And, more
16 importantly, so my children -- I can hand off a legacy
17 that I'm proud of, the same legacy that I'm proud of that
18 was handed off to me.

19 And, again, I thank you very much for your
20 tolerance and I thank you very much for the opportunity.
21 And I promise if we get this pilot project, that we will
22 have a significant impact on the future.

23 Thank you very much.

24 (Applause.)

25 CAL/EPA UNDERSECRETARY BRANHAM: Thank you, Ron.

1 Let's see. We've got Laurie Nelson, followed by
2 Davis Baltz.

3 MS. NELSON: Mr. Undersecretary and members of
4 the Committee. Laurie Nelson again on behalf of the
5 Consumer Specialty Products Association. Again, we're 240
6 companies that make products for the care and cleaning of
7 households, institutions, hospitals, et cetera.

8 And I wanted to speak to the "precautionary
9 approach" definition before you. And I understand there's
10 a lot of frustration in this room for the focus on words.
11 But it's these words from which we form our laws and
12 regulations, and that's what we operate under. And I
13 don't want anyone to underestimate the power of those
14 words. Because once those words are in print, other
15 places, other people will adopt them. We've already seen
16 that. Even though this definition is a working
17 definition, a work in progress, a living document, you've
18 already heard South Coast is interested in adopting it.
19 So it feeds on itself and it grows once it gets into
20 print.

21 In the case of the "precautionary approach"
22 definition -- and we would again support what Cindy Tuck
23 had to say and, that is, we don't have the problems with
24 the anticipatory action or other relative information, but
25 we would request that the Committee put in. -- "serious

1 harm" back in. And a lot of work has been done on this
2 already. And these are not chemical company or company
3 definitions. These are -- as Cindy mentioned, Canada, the
4 United Nations, City and County of San Francisco, who is
5 not known for being overly conservative. And our
6 companies -- even our California companies compete
7 nationally and also globally. And so if we can ensure
8 consistency and make sure we get the words right, it will
9 be a major impact.

10 Thank you.

11 CAL/EPA UNDERSECRETARY BRANHAM: Thank you,
12 Laurie.

13 Davis Baltz, followed by Shabaku Heru.

14 MR. BALTZ: Secretary Lloyd, members of the
15 Interagency Working Group. Once again, Davis Baltz with
16 Commonweal, a health and environmental research institute
17 in Bolinas, California.

18 I'm going to speak about the precautionary
19 approach. And I have four separate comments to make.

20 Of the two definitions on the table, we have a
21 clear preference for the CEJAC definition that was
22 developed yesterday. But I think -- my four comments
23 suggest that this definition could go even further in
24 laying out a precautionary approach that would be useful
25 for you to consider.

1 The first comment has to do with the lack in this
2 definition of alternatives assessment. This is a central
3 feature of a precautionary approach, to lay all the
4 alternatives on the table. There's an obligation under a
5 precautionary approach to look at the alternatives and to
6 select the one that has the least potential harm for human
7 health and the environment.

8 And when assessing alternatives, it's important
9 to consider all the costs; for example, the raw materials,
10 the production, the transportation, the use, the
11 disposable and the subsequent costs to human health and
12 the ecosystem after the activity itself is over.

13 So the first comment is: I really think this
14 definition needs to have some mention of alternatives
15 assessment. It's critical.

16 The second thing that's lacking in this
17 definition is a mention of public participation; which, as
18 we've heard yesterday and today, is very important. And I
19 feel that it needs to be worked into the definition
20 somewhere. The community has a right to know complete and
21 accurate information on potential human health effects and
22 to their environment on any proposed service, operation,
23 plan or product.

24 The third comment has to do with the conversation
25 we've been having on what is the threshold that should be

1 in the definition when action is triggered. And I think
2 since a precautionary approach is meant to prevent harm
3 rather than manage it after the fact, we really want to
4 lower the threshold to the greatest degree possible and
5 still be responsible when we take anticipatory action.
6 The word "reasonable" the word "threat" and certainly the
7 word "serious," if that stays in the definition, all of
8 these can be debated to the point where you could decide
9 not to take action when in fact there was harm being done.

10 So my proposal would be -- if you would consider
11 it, rather than the phrase that exists, would be to use
12 "credible evidence of harm" as opposed to "reasonable
13 threat of harm".

14 And my final point has to do with the kind of
15 information that will be evaluated before action is taken.
16 "Best available science and other relevant information,"
17 we agree with that. And we'd also like to insert the
18 word, to help modify "science," "independent" science.
19 It's important that the literature -- the scientific
20 literature that's put on the table to make these decisions
21 is the best available science. And we have to avoid
22 relying on studies that are funded by vested interests.

23 So just to summarize, I will read you a draft
24 revised definition, which you can take under consideration
25 if you so choose.

1 "A precautionary approach means taking
2 anticipatory action to protect public health or the
3 environment if credible evidence of harm exists based upon
4 the best available independent science and other relevant
5 information, even if absolute and undisputed and
6 scientific evidence is not available to assess the exact
7 nature and extent of risk. A full range of alternatives
8 will be examined in a transparent, democratic and
9 participatory public process with the goal of selecting
10 the alternative which carries the least potential harm to
11 human health and the environment."

12 Thank you for considering these comments.

13 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

14 Catherine, did you have a question, comment?

15 ARB EXECUTIVE OFFICER WITHERSPOON: Well, I think
16 I'll wait till there's more testimony.

17 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

18 Shabaka Heru, followed by Robert Cabrales.

19 MR. HERU: My name is Shabaka Heru. I'm from the
20 Community Coalition for Change from the south central Los
21 Angeles.

22 Hearing the debate and the word "serious" caused
23 me a few problems, because the word "serious" comes from
24 the star Sirius, which comes from the Dogons in Africa.
25 So when you take the "serious" out of it, it's sort of

1 personal, you know. "Serious" is very serious to me.

2 Also, my name Heru -- I don't know if you all
3 know what Heru means. Heru was the first hero. And all I
4 would ask you to do is think about that name and try to do
5 something heroic every day, because that's why I wear the
6 name, because it's about attempting to do something right
7 and trying to do what you believe is true.

8 Yesterday and today I've been involved and were
9 involved in some lobbying attempts. And that's very
10 interesting. It's one of the -- it's about the second or
11 third time I've been down here doing it. And Sacramento's
12 very interesting. This has been an adventure. I'm a
13 little bit out of my element. And I thank you all for
14 bearing with me.

15 The legislators and the politicians, particularly
16 from my community, I think that there's a disconnect
17 sometimes because, quite frankly, most of them don't live
18 in the community and most of them aren't speaking to us
19 and educating us about these environmental issues. I'm
20 getting them firsthand for the most part.

21 I'd like you all to think about this. This is
22 something my girlfriend told me. She told me two things:
23 She said, one, "If you shut your eyes, what do you see?"
24 And she answered and she said, "Nothing." And I would say
25 that's what will happen if we don't -- if we just shut our

1 eyes, nothing will happen.

2 And she also said -- and this is a metaphor --
3 she said, "Don't urinate on my head and say it's raining."
4 And I'd just like you to think that we hear so much double
5 talk from politicians and we hear so many things that,
6 quite frankly, most of us don't know what to think. And
7 for me, I really do appreciate you giving me an
8 opportunity to listen to the testimony and to hear what
9 other people have to say.

10 Cynthia Babich and I and the other Cynthia, we
11 came down here, and we share a common problem in L.A.
12 County. And, that is, we live in an -- we live in
13 unincorporated areas. She lives south of me and close to
14 Torrance and Carson and I live further north. But we're
15 suffering the same problem. Of course she's a white woman
16 and I'm a black man, and -- but we're having the same
17 problem, and that problem is that in the areas that we
18 live in we seem to be besieged by businesses because we
19 don't have the buffer or the intermediary of a city
20 government to protect us. And so right now we're being
21 barraged by businesses that want to locate in our
22 community. And most of them are against our interests.

23 On my way to getting where I'm at, I'm very
24 grateful and fortunate to my colleagues, Joe Lyou, Angelo
25 Logan, Filipe, Jesse, Rey, Jane -- there's a gang of them.

1 Each of these people and many, many others that I can't
2 pronounce -- say their names right now, they've taught me
3 that I'm not alone, that this environmental thing is
4 something that we're all dealing with. And I don't want
5 to say that my problems are the worst problems, but we're
6 all dealing with this problem together. And it's good
7 that we have these opportunities to get together and try
8 to work this stuff out.

9 I'd just like to make a few more points. One is
10 that I heard once from Minister Louis Farrakhan that there
11 are no big I's and little u's. We have to recognize one
12 another and give one another respect. And I think that
13 that's one of the things that this process has truly
14 helped me grow a little bit.

15 One thing about my community -- one thing, one
16 thing, one thing -- another point about my community is
17 that I would like for our community, my community to have
18 an opportunity to define itself. One thing that I've
19 found -- another one thing is that very often our
20 community is being defined from outside of the community,
21 and the people within the community have very little to
22 say. And nobody knows what's going on where I live better
23 than I do and my neighbors.

24 I have a friend, his name is Dr. Paul Gosselin.
25 And he is a vegetarian and he's teaching me how to grow

1 fruits and vegetables and he's teaching me how to eat
2 right and to avoid a lot of things that I shouldn't eat.
3 And I'm trying to do that with my dad. I'm really afraid
4 being down here because he's at home alone and he scares
5 me.

6 But I've noticed that when I grow fruits and
7 vegetables and the trees and the things that grow, they
8 don't look right anymore. Some of the leaves are
9 shriveling and they didn't shrivel before. Some of the
10 fruit has one side that looks different than the other
11 side. Sometimes when I open it, it doesn't look good. So
12 I'm trying to grow my own fruits and vegetables, but with
13 what's going on in the environment is kind of scary right
14 now.

15 One last point, and that is about the businesses
16 in the community. The businesses in the community that I
17 live in, it's like -- it's like an invading army. Most of
18 the people that own these businesses, they don't live in
19 our community. Most of the people that work in these
20 businesses, they don't live in our community. Most of the
21 people in my community, I just see them at the liquor
22 store all the time.

23 So I mean it's one thing to come in and set up
24 shop, and we don't have anything to say about it, we don't
25 have anybody that's getting any benefit from it, we don't

1 have any kind of control, the businesses are set up, we
2 don't have any opportunity to comment -- I know right
3 now -- I live right off of the corner of Rosecrans and
4 Main Street. There's a warehouse going up right now.
5 Nobody knows what's going on in that warehouse or nobody
6 knows what's going to go in there.

7 There's an expansion of an oil refinery right
8 behind me. We had an opportunity to comment and we got
9 the notification on the 22nd of January, and the comment
10 period was closed on the 24th. I don't know anything
11 about refineries or how these containers are configured.
12 And we'd like to comment on that. We'd like to have an
13 opportunity to do something about it.

14 So I would just like to say that the
15 precautionary process is great. The pilot project, the
16 one that's going on, I'd like for our community to be a
17 part of it. All we want to do is to be able to sit at the
18 table. That's all we ask. And we -- like Minister
19 Farrakhan said, we don't want to have this big I, little u
20 thing. We want to speak with you just like you can speak
21 with us. We're not here to do anything but try to get
22 some justice, some environmental justice.

23 Thank you.

24 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

25 (Applause.)

1 CAL/EPA UNDERSECRETARY BRANHAM: Robert Cabrales,
2 followed by Fernando Rejon.

3 MR. CABRALES: Once again, I'm going to keep this
4 short. I think the precautionary definition there is
5 beautiful actually. I'm okay with it. I support it, only
6 because any reasonable threat of harm exists -- already
7 exists in our community and I think that needs to be taken
8 into account. And we support the definition on there.

9 Thank you.

10 (Applause.)

11 MR. CABRALES: Can we get a quick time check so
12 that we can see more or less how much time more we're
13 going to spend here?

14 CAL/EPA UNDERSECRETARY BRANHAM: I wish I knew.
15 We've got a pretty good stack of comments. So -- if
16 everyone was as brief as you, it would be quicker. But
17 that may not happen.

18 Fernando Rejon, followed by Renee Pinel.

19 MR. REJON: Hi. Fernando Rejon with Pacoima
20 Beautiful.

21 One of the things that I'm seeing here is you
22 allowed an advisory board to be brought together. So
23 there obviously was some issues with the environmental
24 justice people and the businesses. And so make an
25 advisory board and you can put your differences together

1 and create definitions. And then after the definitions
2 are made and voted on, then it's like, "Oh, well, you got
3 us trapped. You got us trapped, so we have to leave a way
4 out." So you change it "where applicable," all these --
5 you know, all these words.

6 So for me that's kind of like -- to me it's a
7 little disrespectful, you know, what I mean, to have an
8 advisory board to put in a lot of work to do that's been
9 voted on it. Like what's the point of them voting on it?
10 Because words are very important, and we use these words
11 to defend our communities. You know, we know how the law
12 works. We know what -- you know, what kind of rhetoric
13 and what kind of jargon to use, and that's why we use
14 them, and that's why this advisory board votes on them.

15 And so then it's kind of like, well, you know, go
16 ahead and do what you got to do. But then when it comes
17 down to it and you don't leave us a way out, then we're
18 going to change it on you and we're going to make sure
19 that we aren't trapped.

20 So I think it's very disrespectful to the
21 Advisory Board to, you know, just be adding words like
22 that. We know that we do use these to protect our
23 community. And for you to change words like that, just
24 like off the bat, that leaves a way out. And it makes our
25 work a lot more difficult.

1 So, for example, DTSC and Water Board -- Price
2 Pfister is under the Water Board. Water Board says, "We
3 don't need to do an EIR if you want to develop on this
4 piece of land." So then DTSC comes in and they say,
5 "Okay. Well, we'll do testing". So we have all this
6 drama in our community between these two agencies and
7 we're supposed to work. So I am talking about public
8 participation.

9 So DTSC says, "There's vinyl chloride at Price
10 Pfister." Water Board says, "No, it's coming from Whole
11 Chem." So it's like now we have these conflicts of
12 interest like, "Well, what's going on? How do you expect
13 us to work with you if you don't even have it right?" So
14 it's very difficult and it's very time consuming to work
15 with you all if -- you know, at every level.

16 So at the community level, at this advisory board
17 level -- we came all the way up here to Sacramento, spent
18 hours yesterday getting these definitions together. And
19 then it's just like, "We want you to make a choice." We
20 say -- "Okay. Either you're here or you're here. Make a
21 choice." And so it's kind of like we're kind of here, but
22 we're kind of there, so we'll have an escape route. We'll
23 leave a way out."

24 So for me it's like -- it's very frustrating
25 being here and going through this whole process. And it's

1 just like you treat us like suckers, like straight up,
2 like you guys just look at us just like, "Oh, yeah. Well,
3 we have the last say in this, so whatever they say doesn't
4 matter." And so, you know, we could go into like all
5 these problems in the community, this and that. And
6 you've heard it all, right? Pacoima is a mirror image of
7 all these other communities in L.A., of all these
8 communities throughout the world. So, you know, we don't
9 have to go into any of that.

10 My thing is that if you keep -- if you keep
11 making us depending on you to do it for us -- to do it for
12 us and to protect our communities, that's where the
13 injustice comes. For the EPA to be talking about
14 environmental justice, okay, it's a good thing. But I
15 don't think anyone here can define what justice is, you
16 know what I mean? We can't even define what justice is,
17 because we've never seen justice, we've never experienced
18 justice. And I think it's taking away from the fact that
19 what environmental justice is, what does it really mean?

20 So we have two things. We've been talking -- a
21 lot of people today have been talking about death, right?
22 Death, I mean that's a serious issue. We have life and we
23 have death. And people have to make choices, people have
24 to make serious choices in their life, like "What side am
25 I on? Am I on the side of life or am I on the side of

1 death?"

2 Death is you're going to let businesses pollute
3 and dump on our communities.

4 Life, you're going to do something about it.

5 So we all have to make these choices and where we
6 stand. And it can't be "Well, I'm kind of for life and
7 I'm kind of for death, so we'll just take the middle road
8 and leave a way out for us so both life and death can
9 coexist."

10 So for me that's where I'm very frustrated with
11 this process. And now it's like I don't know what the
12 whole point of being here was. You know, I appreciate the
13 opportunity like to talk to you and let you know kind of
14 like what's going on. And kind of see how this process
15 goes. Because to me it's like yesterday I was very angry,
16 very like, "Yeah, you know, ain't nothing going to
17 happen," and I guess I was kind of right.

18 But then I walked by the State Capitol Building
19 last night and it was like, wow, it's a trip. This is
20 where all the people make the decisions that affect our
21 communities, like this is where set, you know, the
22 immigration to come into our communities, you know, the
23 police, you know, all these propositions. It's where all
24 the stuff goes down. And I was thinking about it and then
25 I was like, man.

1 And then I thought, "Well, hey, remember when the
2 Panthers came in here and just took it into their own
3 hands and said, 'Hey, we want to be free,' you know."

4 And that just -- like to me I thought, "Well, you
5 know, that's what it's going to take. Like should we
6 waste our time coming up here or should we just go and
7 stay in our communities and organize?" And to me I guess
8 that's what it is, because after seeing this process,
9 spending hours here hearing what people have to say,
10 hearing about death, hearing about all this death; and
11 you, you know, kind of punk out -- well, you do punk out,
12 not kind of, you punk out and say, "Oh, well, we'll leave
13 a way out because, you know, we got strings, we know what
14 the business is, we know businesses and the corporations
15 who has the power."

16 It's a reality and we know that. We know what
17 interests are involved. So it's like to us -- to me
18 personally -- I'll speak for myself -- but, you know, I
19 feel disrespected for spending all this time over here, to
20 sit here -- what?

21 CAL/EPA UNDERSECRETARY BRANHAM: I appreciated
22 that, and I'm sorry if you feel that way.

23 I want to be clear. The Advisory Committee --
24 that's why we call it advisory committee -- and I think
25 the Advisory Committee did a very good job of bringing the

1 issues to us. And this body and the positions we hold, we
2 do have to make the decision. And I can appreciate that
3 we didn't make decision that you apparently thought was
4 the correct one. But that's the job we have to do. And I
5 think the Advisory Committee did a good job of bringing
6 those issues forward to us, but as an advisory committee.
7 It's not -- and that's the way the process works. And I
8 appreciate your comments --

9 MR. REJON: Exactly. But that's what I'm saying.
10 See, that's the problem, with the way it's set up. And
11 for me, just coming from this community perspective --
12 and, you know, you can laugh, because I know you're tired.
13 I'm tired of listening to everyone too. Damn, you know.
14 But that's just where it's at and that's the truth. And
15 that's -- you know, that's the reality that we have to
16 deal with.

17 So I mean I'm glad everyone's here, you know,
18 what I mean? And we try to work with you, but it's very
19 difficult and we need to address that.

20 CAL/EPA UNDERSECRETARY BRANHAM: Appreciate it.
21 Thank you.

22 (Applause.)

23 CAL/EPA UNDERSECRETARY BRANHAM: Renee Pinel,
24 followed Bruce Magnani.

25 MS. PINEL: Renee Pinel on behalf of the Western

1 Plant Health Association.

2 From a business perspective -- and I'm going to
3 speak from the agricultural industry. One of California's
4 farmers' greatest challenges right now is trying to stay
5 competitive with other states and with international --
6 other international farmers. And our members work at
7 providing the important inputs that California farmers
8 need in order to stay competitive. And one of the great
9 challenges that we face is, in providing those products,
10 is working through regulations that become inconsistent.
11 We would ask that the term of "serious or irreversible
12 harm" be added back because it does -- it is consistent
13 with the other language that has been developed by other
14 national and international groups. We are confident that
15 they spent a great deal of time evaluating that language,
16 determining if it is the appropriate language to be used.
17 And seeing that -- we don't believe that any of the other
18 groups or organizations that have endorsed that language
19 are overly conservative in the type of language that they
20 would adopt. We think that whenever possible, because
21 this is going to be a road map for future language, that
22 if we can stay consistent with these other organizations,
23 it's always helpful for California farmers to be able to
24 stay at the same competitive level as other states and
25 nations.

1 Thank you.

2 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

3 Bruce.

4 EJ ADVISORY COMMITTEE MEMBER MAGNANI: If the
5 other gentleman's unhappy with the decision and I'm
6 unhappy with the decision, maybe you're doing a great job.

7 (Laughter.)

8 CAL/EPA UNDERSECRETARY BRANHAM: Bruce, then
9 Lenore Volturino in next.

10 EJ ADVISORY COMMITTEE MEMBER MAGNANI: Bruce
11 Magnani with California Chamber of Commerce. And if
12 you're not familiar with the Chamber, we have over 15,000
13 members, 75 percent of those members are small business.

14 Cindy already spoke about a lot of the issues
15 that of course I can say I agree with. We did come to the
16 meeting yesterday, both as Committee members and
17 individually agreed during the course of the discussion to
18 accept "anticipatory" as an amendment to the
19 staff-recommended definition as well as "or other relevant
20 information". So we did agree to those changes in the
21 meeting after that discussion.

22 However, I think the staff did an excellent job
23 in sourcing the definition that they proposed, and the
24 "serious" I think is an important aspect of that for
25 consistency. And I think there's one that you'll always

1 find with business is they always like consistency and
2 certainty. And there's value to that.

3 The other thing is they also like a level playing
4 field. And a lot of the people that are here are
5 complaining about those businesses that are polluting
6 their communities, I think you would find the Chamber of
7 Commerce supporting them in looking for enforcement on
8 those issues, because we certainly want to play on a level
9 playing field. And if someone is violating the law and
10 operating in a manner that's not a level playing field in
11 the business community, the business community is
12 certainly going to support enforcement against that
13 company.

14 So with those comments, I'll keep it short.
15 Thank you.

16 CAL/EPA UNDERSECRETARY BRANHAM: Thank you, Bruce.

17 Lenore Volturno.

18 She left.

19 Caroline Farrell, followed my Martha Arguello.

20 MS. FARRELL: Good afternoon. My name is
21 Caroline Farrell. I'm with the Center on Race, Poverty
22 and the Environment in Delano. Thank you for your time
23 and attention this afternoon. I know how tiring it can
24 be.

25 I wanted to talk a little bit about including the

1 language of "serious". We support the CEJAC definition.
2 And the reason why is because the action taken -- the only
3 qualifier in the action taken is that it be anticipatory.
4 And it doesn't define what that action could be. It could
5 be further study because there's an identified gap. It
6 could be an examination of alternatives. It could be any
7 number of things below regulatory action. And the fact
8 that the trigger for any action would be that the harm be
9 serious I think raises the level where -- the threshold, I
10 suppose, before action can be taken unnecessarily. I mean
11 I think it's reasonable to expect that the degree of harm
12 would be met with a proportionate reaction to it or -- as
13 opposed to a reaction, a proactive step to prevent it.

14 I don't think that, you know, what we're asking
15 for is that at any harm, you know, automatically
16 regulatory controls come in. I think the degree of harm
17 and the degree of the action should be proportional.

18 But including the language of "serious" I think
19 increases the threshold for maybe even a very preliminary
20 action, like a study. And I think that that's not
21 necessary. I think especially at an early stage of a
22 working definition to immediately have your trigger be
23 "serious" I think unnecessarily raises the threshold. And
24 I think that that is why "serious" was removed. I think
25 that's a reasonable amendment to the language that CEJAC

1 made.

2 And I have -- that's my only comment on the
3 precautionary principle.

4 I have one comment on the pilot project that
5 Department of Pesticide Regulation has proposed for the
6 Central Valley. I mean we think the project is great in
7 terms of looking at pesticides and air impacts. We think
8 that's wonderful.

9 One of the objectives I think involved in the
10 project is examining pesticide use in the air with
11 existing reference exposure levels. And as I understand
12 it, not all pesticides have a reference exposure level.
13 And for the pesticides that do, I think it would be
14 worthwhile to examine whether health effects experienced
15 in the community are consistent with what would be
16 expected from pesticides in the air, and use that
17 information to evaluate whether or not existing reference
18 exposure levels are accurate, just to see in this one
19 particular instance if the assumptions made in the
20 reference exposure levels are accurate and maybe perform a
21 further basis for additional studies in other communities.

22 So those are just my comments.

23 CIWMB CHAIRPERSON MARIN: I have a question.

24 CAL/EPA UNDERSECRETARY BRANHAM: Rosario.

25 CIWMB CHAIRPERSON MARIN: I have a question.

1 And I want you to enlighten me in that -- and
2 this was one of the things that I was trying to get the
3 other lady to help me understand what would be an
4 anticipatory. And you mentioned a study and other people
5 said a study and so forth.

6 But if we're attempting to compete with other
7 people, the competition now is not at the local level or
8 even at the national level, but industries -- all kinds of
9 different industries are competing in the international
10 arena, for businesses to develop products, to develop
11 services, often times one of the problems that is cited in
12 doing business in California is the amount of regulation,
13 the amount that it takes to get a permit. And maybe that
14 would not be your concern. But it is -- if we are going
15 to now require more studies to do things, that has a very
16 significant challenge when we are going to attempt to stay
17 or remain competitive in a global market.

18 How do you feel about that?

19 MS. FARRELL: Well, you know, obviously I work in
20 rural California where unemployment is a huge issue. And
21 how to address that problem is also enormous. Our -- you
22 know, we are very much interested in economic growth for
23 our communities and employment for our communities. We
24 don't believe that it's a tradeoff between environmental
25 regulation and having a good job or having economic

1 prosperity. In fact, I don't -- I wish I had it before me
2 today. But I know that the Environmental Protection
3 Agency the -- U.S. Environmental Protection Agency has
4 undertaken studies on Super Fund sites and Super Fund site
5 clean up and environmental regulation, and has found that
6 in fact when you clean up pollution or when you regulate
7 pollution, you actually do generate economic benefit.

8 And I don't think that the precautionary approach
9 necessarily means that you have to undertake additional
10 studies automatically. I think it's a way of just
11 regulating. I think it's a way of doing business as an
12 agency. And I think it tells everybody up front that, you
13 know, we're going to be mindful that harm can result and
14 we're going to be in a -- we're going to take a viewpoint
15 where we're going to do our best to deal with that harm
16 before it becomes a problem, before it becomes
17 irreversible, before it becomes serious, before it
18 negatively impacts our communities to a degree that they
19 cannot economically participate.

20 Because the thing we also see is that failing to
21 address environmental harms -- I'm just speaking from what
22 I see in the Central Valley where I live and work. And
23 that's, you know, kids have trouble with their asthma so
24 they can't go to school or have full attendants, so they
25 may be left back. It may affect their ability to go on in

1 further education. That impacts their ability to
2 participate in the global marketplace and provide a good
3 workforce for California to avail itself of all of the
4 great economic benefits.

5 And so I think, you know, we have to -- I mean
6 it's a thing that we wrestle with as well. Because, you
7 know, to be perfectly honest, we're not trying to be
8 obstructionist. We may appear obstructionist. But, you
9 know, sometimes -- I also know that when growing up I was
10 told that I can't always have everything I want. And I
11 think, you know, as regulators and as people in the
12 community, we try and provide a check on, you know -- we
13 don't get everything we want and, you know, not
14 everybody -- and industry doesn't always get what they
15 want. But -- you know.

16 I don't if that answered your question.

17 CIWMB CHAIRPERSON MARIN: (Nods head.)

18 MS. FARRELL: Sort of did, sort of didn't.

19 Well, those are my comments.

20 CAL/EPA UNDERSECRETARY BRANHAM: She can't get
21 everything she wants. So don't --

22 MS. FARRELL: Yeah, exactly.

23 CIWMB CHAIRPERSON MARIN: I never get anything
24 that I want, so that's a problem.

25 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.

1 Martha Arguello, followed by LaDonna Williams.

2 MS. ARGUELLO: Yes. I want to actually clarify
3 some questions about Joe Lyou's comment. And he had to go
4 to a meeting, so he left me some notes.

5 We've been talking about taking participatory
6 action. So the issue of threats -- I'm going to read what
7 he wrote.

8 "Threats of serious, irreversible, cumulative or
9 widespread harm are of more concern than of trivial
10 threats and demand precautionary action commensurate with
11 their nature."

12 Now, I sit on L.A.U.S.D.'s integrated pest
13 management program, which is a precautionary principle
14 policy. So I can tell you how that works in terms of
15 relative risk, what's a bigger risk. When we sat down to
16 look at the 134 products that the district was using --
17 and it was a democratic process with district staff,
18 parents, environmental organizations, community
19 organizations, with an equal vote and equal say over what
20 happens, and an integrated pest management expert in low
21 toxicity pesticide use -- actually in low toxic pest
22 control methods. So what we did is we looked at those 134
23 products, we looked at what we wanted to keep in the
24 toolbox. At the end of the day we still have Roundup on
25 that list. Now, the pesticide activists would probably

1 say no. But when we sat and weighed the issues and the
2 problems that weeds were causing in the district and how
3 we actually -- and what we have currently available to
4 deal with them, we said two things: Let's keep looking
5 for a new better technology. That's the alternatives
6 assessment. And we've tried a lot of things, from steam
7 to flamers, you know, and then -- many different things.

8 So at the end of the day we have I think 34
9 products. There are some things in there that some of us
10 would want to remove. But we know that until the
11 alternative is there, we won't.

12 And so that's how it works in practice.

13 I'm going to give you another example that's a
14 little more vague. But we have been involved in a process
15 with the L.A. Airport expansion. And for many -- a
16 coalition of groups came together to say, "Well, let's
17 think of alternatives. Let's have a democratic
18 participatory process where we can come up with
19 alternatives." And it was labor and residence and the
20 school district and environmental organizations, public
21 health organizations. And we -- you know, we're not going
22 to get rid of the airport. It's going to grow. So how do
23 we sit down and figure out a way to do this that is
24 equitable, balances interests, risks and benefits? Is it
25 perfect? Did everybody get what they want? Probably not.

1 But we know that some of the jobs will stay in the
2 community so that the promise of jobs isn't a false
3 promise, it's real, and it was negotiated. We've
4 negotiated with the airport around cleanup and new
5 technologies so that the airport is a better neighbor.

6 Through this process we were able to get a lot of
7 things for the schools who had negotiated the original
8 agreements with LAX many years ago. And the mitigation
9 costs for the windows and all those things were not
10 adequate, but that number had been locked in with previous
11 regulatory action.

12 And the community members said, "We know we're
13 not going to stop this. But every time a table comes up
14 and we just say no, we get screwed."

15 And so this time let's talk about how to have an
16 equitable process. We consider that process key to what
17 is precautionary approach, is residents and the impacted
18 parties sitting down and saying, "How are we going to make
19 this better?" So we're not being extremists and saying,
20 "Close the airport down. Let's all ride horses," as some
21 of the opponents of the precautionary principle have said
22 we want to do. It was reasonable, and then you guaranteed
23 economic development stayed in that community, that it
24 wasn't a false promise, and we're cleaning up the airport.

25 So, again, you can't see this definition outside

1 of the context of alternatives assessment.

2 And I'll give you an international example in
3 terms of competitive. The Dutch decided that they were
4 going to, I think it's 2010 have all their farming be
5 organic. And they did not ignore the issues of small
6 farmers, and said, "If we're going to do this, we need to
7 make sure we support small farmers. They're the backbone
8 of this industry."

9 So we have to be realistic and not raise bugaboos
10 about losing economic competitiveness, because those are
11 false -- those are false. And what we have seen in the
12 communities that we live in is that that promise of
13 prosperity doesn't come. What does come is all the
14 burdens and somebody else taking those. So we want those
15 to be negotiated and fair and equitable. And that there's
16 a way to do this without stopping industry and have
17 economic development.

18 And I sent to Tam a document called "Prospering
19 with Precaution". I can send that to all of you. And it
20 looks at examples of where we could use precaution and
21 still prosper. There is a lot of stuff that actually the
22 EPA has done around the economic benefits of new
23 regulations. And we should -- if we're going to protect
24 industry, if we're going to protect business, it should be
25 those who are forward thinking and are thinking about

1 long-term sustainability.

2 So, for example, Verizon has signed on to a
3 statement or on the precautionary principle, that in their
4 workings they're going to espouse precaution. And they
5 expect to grow economically.

6 Bill Joy has also said we need to look at the
7 unintended consequences of our technologies. And, again,
8 he's making a lot of money and wants to continue to make a
9 lot of money for a lot of people.

10 Thank you.

11 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

12 LaDonna Williams, followed by Barry Wallerstein.

13 MS. WILLIAMS: LaDonna Williams, People for
14 Children's Health and Environmental Justice.

15 I want to make a comment on two things. One is
16 the language that the Committee has adopted on
17 precautionary approach. And then the other is a pilot
18 program. And I'm sure as I go along I'll forget some
19 things and wish I'd have said them, but I'll try and get
20 them all in and hopefully in a short period of time.

21 Hoping to give Rosario -- Is that how you
22 pronounce it?

23 CIWMB CHAIRPERSON MARIN: (Nods head.)

24 MS. WILLIAMS: -- maybe an example of what the
25 anticipatory action taken would possibly be.

1 I gave you a little background on Midway Village
2 being a community in Daly City that's been exposed to and
3 contaminated by Pacific Gas & Electric Company's PNA's,
4 PAH's, VOC's, over 350 plus chemicals, more than 150 of
5 them cancer causers.

6 An example would be the fact -- and I think I
7 probably cut short and touched on it -- my parents never
8 lived at Midway Village. That was my first apartment as a
9 teenage mother. And they were the ones that turned over
10 the dirt at Midway Village, attempting to show me how to
11 be self-sustaining and planting a garden. That sort of
12 touches on farming.

13 In any event, after we discovered what the
14 chemicals were and discovered that ATSDR has each one of
15 these Super Fund chemicals listed, what the exposure rate
16 is, and what the residuals or the fallout of it is, which
17 many of it was cancer, which my mom and father died of --
18 and death.

19 Now, taking anticipatory actions on that would
20 have been the fact that after we had discovered what had
21 happened -- during the ten years we didn't know. But
22 later on after I moved away, came back, discovered what
23 had happened, got this information, shared it with DTSC, I
24 think they could have reasonably concluded the fact that
25 our communities in our front and back yards were

1 contaminated with over 350 cancer -- carcinogenics.
2 Instead of them taking action on that, they sent out memos
3 that basically said, "There's no problem out there. Oh,
4 we acknowledge that the chemicals are there. However,
5 those are just minor nuisances that you have to deal with.
6 They're trace amounts. No problem." So they allowed it
7 to go on.

8 And then about five years later, the other
9 neighbors who were Hispanic moved in behind us. Her son
10 was then the gardener. Well, he dies five years after his
11 exposure. So had there been some anticipation on "there's
12 possibly a problem here," knowing that there's 350
13 chemicals. These people are bringing these issues out.

14 Maybe we need to start testing -- now, this is a
15 story being played out throughout Midway Village. Had
16 some agency, DTSC, who was the lead agency, taken a
17 position of protecting the public from this, I think they
18 could have prevented, not only my mother's death and
19 father, but the neighbor that came behind us, the neighbor
20 that lived next door to us, the neighbor that lived on the
21 other side, her and her child, and the various brain
22 tumors and miscarriages and abnormal children being born
23 and the cancer rate that's off the hook and the fact that
24 a lot of these people have died before their time.

25 So if that's not an example of what taking

1 anticipatory action would be to protect public health.
2 Those that have, you know, been exposed and -- they're
3 gone, but we can move forward hopefully and say nobody
4 else has to die at the expense of lack of action on the
5 part of a department that's supposed so be protecting
6 public health.

7 Okay. Now, I want to get on the pilot project.
8 In here -- DTSC has proposed these pilot projects in the
9 Bay Area. And the two that they proposed here is Hayward
10 and Oakland.

11 Now, we presented Midway Village as a pilot
12 project that DTSC should use, but they're rejecting that
13 basically. Their position is -- and they didn't give it
14 to us. We had to go on the net and find out. But their
15 position is we're only complaining or stating what DTSC
16 has done out there, that Midway Village is a clean site.
17 Now, it might be clean by their standards because they
18 removed three feet of the contaminated soil and covered
19 over it with cement. And now they're deeming it clean.
20 But the chemicals are still there. They're still sitting
21 right next to PG&E. They're still being exposed every
22 single day to these same contaminants that's still in the
23 ground, it's still in their air, still in their soil, it's
24 still in their water.

25 Mind you, the Water Board didn't even want to be

1 involved in it. They didn't even bother to test the
2 water. They just said, "Oh, you don't get your water from
3 this source. There's no problems." But, yet, and still
4 they had to come back four times and do cleanups. Now,
5 after each cleanup over the -- what is it now -- 15 years
6 they each time considered Midway Village a clean site.
7 And that's what they're currently trying to do. Even
8 though it is a Super Fund site, it was on the Super Fund
9 site list back in '83. They decided to take it off. Even
10 though they've done actions that are Super Fund
11 activities, they refuse to label Midway Village a Super
12 Fund site. And It should be. And it should be your pilot
13 project to begin to show, okay -- or at least acknowledge
14 DTSC what they have done to Midway was wrong.

15 They set up a public participation process that
16 really did not take place, but on your reports it reflects
17 like it did. They act like they included the public's
18 input. When you look at the list of participants,
19 especially in the beginning, there was not a single
20 resident that's being affected that was a part of the
21 process. They made decisions -- and, mind you -- racist
22 decisions on this site that it's okay for these people to
23 be there while they were even doing the clean. They left
24 dirt exposed. They left the children out there playing
25 around while they were doing this supposed cleanup, after

1 we had to discover on our own what had taken place out
2 there. They went on about business as usual, not giving a
3 damn about Midway and what has happened out there.

4 So we're asking that they use Midway now as a
5 pilot project, not Oakland and not Hayward. When you look
6 at here where they're talking about this proposed what is
7 a drug lab, even when you add up the numbers, you look at
8 Hayward -- and, mind you, not only how they added the
9 numbers, but how they even list the people to me is
10 racist. They list white first. Well, if you go
11 alphabetically, it should be African-American and then
12 Asian and white at the end. But they list white
13 percentage first. In each city here from Oakland to
14 Hayward, that's number 1. And then when you add up the
15 numbers, the numbers don't even add up. So somebody just
16 put together this report to make it look good.

17 My other thing is: Who is it that actually
18 presented these projects? Was it really a community that
19 came to DTSC and said, "Let's do this"? Was this really
20 community based. I don't think so. I think Midway
21 Village again would show that DTSC is in good faith, now
22 trying to right wrongs that they have done to our
23 community in the past. There is 40 percent black out
24 there at midway, 30 percent Hispanic, 22 percent Asian, 2
25 percent white and 2 percent that is unaccounted for.

1 This community's below poverty level. It's well
2 over like 42 -- 43 percent was the last count, and that
3 was three weeks ago was the information that we got. So
4 if DTSC or Cal EPA is really trying to put together an
5 environmental justice action plan and a pilot project
6 that's really going to be making a difference and start to
7 help a community that really needs help, and what
8 supposedly EJ is about -- isn't it supposed to be about
9 prevention or elimination of toxins or to remove people
10 away from very serious harm to their lives or, you know,
11 their family or their well being? If DTSC is really
12 trying to do this, then I suggest that you all take our
13 suggestion and, that is, to use Midway Village as the Bay
14 Area pilot project, because Midway would be the perfect
15 model and it would also give the Department a chance to
16 begin to build that bridge of trust and working together.

17 Thank you.

18 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

19 Barry Wallerstein.

20 It looks like he's gone.

21 Cynthia Cory, followed by Kevin Keefer.

22 MS. CORY: Undersecretary, members. Cynthia
23 Cory, California Farm Bureau.

24 Short and sweet. Speaking to the pilot project
25 for pesticides -- Department of Pesticide Regulation. We

1 just want to thank the Department for doing a thorough
2 review. And we support the selection of Parlier. And we
3 just wanted to go on public record saying that.

4 Thank you.

5 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

6 Kevin Keefer, followed by Rey Leon.

7 MR. KEEFER: Yes, thank you for the opportunity
8 to comment. I'll be brief as well.

9 I'm here to comment, just three basic points on
10 the DPR pilot project. I'll echo the thoughts of Cynthia.
11 We do support it as well.

12 Did I introduce myself?

13 So we do want to make the point that this pilot
14 project does not represent all EJ rural communities. It's
15 one place, one area of monitoring. In order to get a
16 bigger picture you'll have to do further monitoring, which
17 will require further funding. But that's something to
18 consider.

19 The standards that will be used to determine
20 whether levels exceed those of human health concerns, we'd
21 like to know what the levels are, whose standards they'll
22 be up front before the monitoring starts.

23 And the last point is more of a question than a
24 point. DPR's expressed the desire to investigate
25 cumulative impacts of multiple pesticide exposures. I

1 don't that there's science available for that. So I'd
2 like to know how they're going to do that. And however
3 they do it, we'd like the best available science.

4 So thank you.

5 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.

6 Penny Newman.

7 Filipe Aguirre. I can't read the writing. Sorry
8 about that.

9 MR. AGUIRRE: Okay. Thank you for your time.

10 My name is Filipe Aguirre. I live, work and I'm
11 an owner -- property owner in the City of Maywood,
12 California. This is a small city, one square mile,
13 located in the southeast Los Angeles County. Our
14 neighbors are Huntington Park, City of Commerce. The 710
15 Freeway on one side. And the Maywood Avenue, which we
16 have a rail yard.

17 We wanted to speak to the issue of the pilot
18 project, a proposal from the Air Resources Board as to the
19 issue of reduction of air pollution exposure in urban
20 communities in southern California. And we wanted to
21 argue for the expansion of this project right now.

22 The project in the southeast is limited to the
23 City of Commerce. And we would like to argue to have the
24 City of Maywood included in that area. It's a community
25 that's been largely ignored. We have a Super Fund site

1 called Pemaco, which is located in a place where the Trust
2 for Public Land wants to build a park, while the U.S. EPA
3 is building an incinerator on our land which is directly
4 across the street from 3,000 families, which live on the
5 corner of 59th and Alamos Street in Maywood.

6 The toxics that we have there at the Pemaco Super
7 Fund site is basically a chemical blending plant. One of
8 the extractive companies that we had there for many years
9 has gone out of business. But they left all their stuff
10 underneath the ground. And this toxic soup includes TCE,
11 perchlorate, and vinyl chloride. And all these elements
12 have seeped into the groundwater and have seeped into the
13 drinking water in our community. And this drinking water
14 is definitely poisoning the people. So we have a
15 multi-media, I think is what you call it, right, effect in
16 our communities. It's not just one thing that's polluted.
17 It's the whole darn thing.

18 And we would like to have part of this project to
19 monitor the air, because we have vapors that are escaping
20 from that Super Fund site. The EPA has made a proposal of
21 January 13th that they're going to build another
22 incinerator in Maywood to try to clean up the toxic soup
23 that we have in there. And we told them that it's
24 dangerous. I mean the U.S. EPA wants to build an
25 incinerator across the street from where people are

1 living, children are growing up. And we told them that
2 this incinerator could release dioxins. They said, "No,
3 this is a new kind of incinerator. This is called a
4 flameless thermal oxidizer. We're going to be warming up
5 the earth and we're going to be doing all these beautiful
6 things. And it's a new fangled thing and you guys are
7 going to be experimental." We said, Gee, thanks."

8 So we wanted to have the Cal EPA study the
9 effects of this incinerator if it does get put into our
10 community, because the U.S. EPA has decided that they are
11 not going to have themselves be monitored for what escapes
12 from that incinerator, from the flameless thermal
13 oxidizer.

14 In 1999 they did the same thing. They put an
15 incinerator in Maywood for seven months. And it was
16 finally taken out. And then they said that, well, they
17 didn't really have the statistics in terms of what effects
18 it had on our community. And then they threw a report on
19 us. Here's a 50-page report on the health effects from a
20 thing called ATSDR. Well, we began to take that report
21 apart and we began to like figure out how they were
22 counting the numbers and counting the people and doing
23 their survey.

24 They interviewed 22 families out of 3,000 in our
25 community. And we went back and we tried to recontact

1 those 22 people. And of those people, there's only six
2 families still left in Maywood. Now, we don't know if the
3 rest of them either died, moved away or what happened to
4 them. But this is supposedly a report on what happened
5 when they put the incinerator in in 1999.

6 We also have a paint company located in our
7 community across the street from a park. This paint
8 company is called Don Edwards. And we found recently in
9 getting some reports, because we get a lot of people that
10 get sick when they walk by that place, is that a lot of
11 the chemicals that are located in the production and
12 they're released by that company are the same chemicals
13 that are located under Pemaco. So we said, "Well,
14 something's going on here," you know. You could have --
15 you can look at something and say can we see
16 scientifically that's it's 2 and 2 is 4 or it's not. But
17 in reality we look at all these things and we say why do
18 we have all these problems, you know, why is the air so
19 contaminated.

20 We're basically in an area where a lot of the
21 trucks get off the freeway and they go straight to the
22 City of Vernon. The City of Vernon is a marvel here in
23 California. They have 11 residents during the nighttime
24 and 100,000 people working there during the day, in what
25 has now become mostly low paying jobs. It used to be a

1 place where we used to have a lot of good paying jobs, we
2 used to have a Bethlehem steel plant right there in the
3 corner of Maywood and Vernon, and it's gone. We used to
4 have an Alcoa plant there. We used to have a GM plant
5 there. All those jobs are gone. Now, we're basically a
6 distribution and drop-off point utilizing the 710 Freeway.
7 We have so much diesel traffic coming on Slaussen Avenue
8 and then going up and down Atlantic where the exit on the
9 Freeway is.

10 That when we did a lead survey about a year ago
11 on Maywood Avenue, which is adjacent to a railroad track,
12 we found a household where they had the highest amount of
13 lead content in the United States. And this, we sent it
14 to a laboratory. And they sent it back to us and said,
15 "No, no. This is wrong. You know, retest it again." We
16 did this example again and it came back higher.

17 So we know there's a lot of lead, you know, in
18 the air and in the -- that is escaping from these trains
19 that are idling on Maywood Avenue. Those trains are very
20 responsible. They just leave the hoods open and they let
21 these chemicals or whatever they have inside these trains
22 just sit there overnight. And people are getting sick and
23 they're dying by the minute.

24 So we would like to get our community included.
25 I know that the people from Commerce do support us. And

1 the other communities in the southeast would benefit from
2 a more comprehensive study. I seen that some of the
3 projects that you're talking about is cleaning up the
4 chrome plants and the other body -- what do they
5 call it -- auto body shops. Maybe we can do a specific
6 study to Maywood as to all the cumulative effects that are
7 affecting our community with the air.

8 So this is what I would like to address my
9 comments to.

10 Thank you.

11 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

12 Catherine.

13 ARB EXECUTIVE OFFICER WITHERSPOON: Not to leave
14 you hanging, we are going to try and expand the boundaries
15 of the Commerce project as large as we possibly can. And
16 a lot of that depends on how many resources the South
17 Coast Air Quality Management District is able to share
18 with us. And Barry is gone, yeah. Though he has offered
19 in the past, and we're counting on him in particular to
20 help us analyze the Vernon complex, because he regulates
21 most of the sources in Vernon. And we would concentrate
22 our efforts on the mobile sources that we regulate, like
23 the diesel trucks you refer to and the rail operations,
24 which we don't regulate, but we pay close attention to.
25 And then other source categories.

1 So we're going to try and get Maywood in there.

2 I can't promise you yet, but we're trying.

3 MR. AGUIRRE: Thank you.

4 CAL/EPA UNDERSECRETARY BRANHAM. Rosario.

5 CIWMB CHAIRPERSON MARIN: Yeah. Mr. Secretary, I
6 think that not only do I support the expansion to include
7 the City of Maywood only because -- what you need to
8 understand just from the geographical area of that, that
9 there are seven communities that are equally in
10 demographics, socioeconomics, and they're all really
11 clustered together. That includes Maywood, Commerce,
12 South Gate, Cudahy, Huntington Park, and Vernon. But
13 Vernon is -- it's very, very small. Vernon is part of
14 Vernon, except that there's about 400 people that live in
15 Vernon. So -- is that six?

16 MR. AGUIRRE: You forgot Bell.

17 CIWMB CHAIRPERSON MARIN: Bell -- and Bell
18 Gardens.

19 I mean it's a very small area, geographical area,
20 but an inordinate amount of people in it.

21 And I don't know how successful we might be in
22 trying to monitor for that entire area.

23 ARB EXECUTIVE OFFICER WITHERSPOON: If we were
24 only monitoring, it would be no problem, because monitors
25 are easy to put up and collect the data from. But it's a

1 very intensive study. And although it's a small area,
2 it's bigger than any one we've ever done so far. And
3 we're also doing Wilmington and we're also doing Mira
4 Loma. So that's the issue, it's just having enough person
5 power to fan out and look at all the different source
6 categories people want us to look at. But we are trying.
7 And our staff went down and they saw exactly what you're
8 talking about. And other activists from the community led
9 us on tours and we, you know, looked at aerial maps. So,
10 you know, you're exactly right. It's just what will we do
11 once we get there.

12 CIWMB CHAIRPERSON MARIN: Because then the
13 question would be -- the information that we would be able
14 to gather, then it could truly be representative of the
15 entire area.

16 But, as you -- I would be more for the expansion
17 of the area and certainly to look at that. If it cannot
18 cover every single city, I can just tell you that whatever
19 you find in Maywood, you will find -- there won't be a
20 discrepancy. It will be true.

21 But for what it's worth, Mr. Secretary.

22 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

23 Jesse Marquez, followed by Angelo Logan.

24 MR. MARQUEZ: Real briefly on a couple of points.

25 We support the pilot studies wholeheartedly. But

1 I want you to realize is that you've heard the public
2 community speak. We're not asking for a hundred pilot
3 studies. We're not asking for 50 pilot studies. We're
4 not asking for 25 pilot studies. Right now it's about 5
5 or 6. But if you need to add one or two more, that's what
6 we see as a reasonable number. We support from the harbor
7 area what I'll call -- and Rosario just used the word
8 "cluster," because that was the word I used a couple
9 months ago as well. Some cases, some pilot studies will
10 be a unique one-area, one-geographic or a one-problem
11 study.

12 But in other areas you might need to do a cluster
13 study to be able to see the type of differences that do
14 occur. So in the case of Commerce, there is a Commerce
15 cluster. In the case of Wilmington, there is Wilmington
16 Harbor cluster. That Wilmington Harbor cluster is
17 Wilmington, where 75 percent of the Port of L.A. is. But
18 San Pedro is the other 25 percent. But the Port of Long
19 Beach is next door. And then Carson has a refinery that
20 borders us, and two of ours border them. So in our case
21 it's Wilmington, San Pedro, Carson and Long Beach. So
22 we're not talking --

23 ARB EXECUTIVE OFFICER WITHERSPOON: Is that all?

24 (Laughter.)

25 MR. MARQUEZ: And then, okay, money. Let's talk

1 money. I'm going to give you a good example.

2 The Port of L.A. profit is between 400 and 600
3 million every year. Now, they spend about 400 million
4 every year for expansion, et cetera. But they still net
5 profit about 90 to 100 million every year.

6 But just to show you how unfair things are, we
7 asked last year for the CFO accountant person to come and
8 do a presentation on the Port of L.A. budget. So here and
9 his staff and the chief engineer from the Port are giving
10 their presentation on the budget. "Yes, we made 500
11 million profit. Yes, we netted 90 extra million." And
12 they kept on going down the line items. And all of a
13 sudden it said 20 million for mitigation. "What's that?"
14 "Well, the Port Board of Harbor Commissioners voted \$20
15 million towards mitigation." Well, it's six months into
16 the fiscal year now. How much of that 20 million has been
17 spent towards mitigation since it's been approved? It's
18 sitting there. None. Well we have six months left. What
19 has been proposed to be spent in the next six months?
20 None. Last year how much was approved for mitigation?
21 Twenty million. How much was spent? None. This is a
22 government agency. And there was money already approved
23 sitting there and it was not spent. And we never even
24 knew about it.

25 And just to show you more lies from a budget

1 before that. It was 613 million and change. And they're
2 always talking about the money, the money, the money. I
3 got a copy of that, and in there it says 147 million
4 budgeted for undesignated future projects, which means it
5 was voted, it was approved and sitting there and was
6 totally discretionary to where it could be used. And that
7 wasn't even counting the 20 million.

8 So in many cases there is money there. Okay?

9 So I support pilot studies. But you also
10 mentioned, Rosario, regarding our international
11 competitiveness. So let me just a few minutes on that.
12 Oh, I live in the port, so I see the international
13 competitiveness. Our basic thing on that is level the
14 playing field.

15 When we asked the Port of L.A. to address the air
16 pollution issue, they couldn't come up with anything.
17 When we suggested -- we, the public, suggested, well, why
18 can't the ships plug in electrically instead of putting
19 out tons a day as their docked there, putting off their
20 engines? Why can't they plug in? Port said it couldn't
21 be done. China Shipping said it couldn't be done. Mayor
22 said it couldn't be done. Wall Mart, Costco, K Mart -- no
23 one wanted to do anything. No one proposed anything.

24 But then there comes that lawsuit you heard me
25 mention earlier, today and yesterday. When we sued the

1 Port of L.A. and we sued the City of L.A. and when we sued
2 the U.S. Army Corps of Engineers, guess what happened.
3 Well, when we won the case, there was a settlement and
4 there were stipulations. And it was agreed and it is
5 ordered by court order that 70 percent of all of China
6 Shipping ships will be retrofitted, so that when they
7 arrive, they will plug in electrically. And we won a \$50
8 million mitigation fund, which is part of that 600 million
9 profit, where that money is being used. And the China
10 Shipping dock today was retrofitted, and it did create
11 construction work with good paying wages.

12 And ten months ago, when China Shipping said,
13 "Screw you, Wilmington and San Pedro. We will never
14 retrofit our ships. Who are you to tell us what to do?"
15 Three months ago the first China ship arrived at the China
16 shipping dock and plugged in electrically. That was the
17 solution, but it took our lawsuit to make it happen. And
18 when we asked the port to deal with those trucks, "They're
19 independent truckers. We can't control them." But
20 Assemblyman Lowenthal listened to us and we got a law
21 passed so they couldn't idle for more than 30 minutes.
22 And less than a handful of tickets have been issued since
23 that law took into effect. We found a solution.

24 And All-American Disneyland, all red, white and
25 blue, 90 percent of all their Mickey Mouse baseball caps

1 and all the products they sell at this red, white and blue
2 patriotic American company, well, they have dumped 90
3 percent of all U.S. manufacturers of all their products
4 they sell. So where are those manufacturers? They don't
5 exist. And the hundreds of thousands of jobs that were
6 lost were American paying jobs. So there's no tax
7 revenues from those companies. And there's no taxes from
8 the sales taxes from the employees because they're not
9 employed.

10 And when they used to pay \$2.75 for that Mickey
11 Mouse baseball cap and now went to a Communist Chinese
12 company in China and are now getting it for a dollar and a
13 quarter, that \$20 baseball cap did not decrease in price.
14 So they did not share no benefit of anything to the
15 American public or any visitor to Disneyland or Disney
16 World. They were fat, happy making their extra profit.

17 So let's talk about international
18 competitiveness. I have a list, and I gave a copy of that
19 to Jim there, where I list -- and this list -- and I
20 presented it two weeks ago at the goods movement meeting
21 in L.A. with Secretary McPeak and Secretary Alan Lloyd --
22 26 cost categories that are never included in those cost
23 benefit analysis. So before we say how good we're
24 competing, let's see if the costs are equal. And all of
25 you may not have read the newspaper a few weeks ago, but

1 there was an article in the L.A. Times that said that
2 there was a steady done in China of the top 10 cities in
3 evaluating public health in blue collar industries. You
4 know what the life expectancy was for a male Chinese blue
5 collar worker? Fifty-seven years old.

6 So if we have to set precedence here, let's do
7 it. And if we have to tell China, "You improve your
8 working conditions to meet good humane, just regulations,"
9 then we all have to do that. We have to raise their level
10 of social consciousness to our level of social
11 consciousness, because we are fighting for our communities
12 of family, but we are also fighting for the world who is
13 part of our whole family.

14 Thank you.

15 CAL/EPA UNDERSECRETARY BRANHAM: Thank you, Jesse.

16 Angelo Logan, followed by Emma Suarez.

17 MR. LOGAN: I apologize. I had to step out for a
18 quick second.

19 We're on the pilot project?

20 CAL/EPA UNDERSECRETARY BRANHAM: We're on both.
21 We're actually still on precautionary principle as well as
22 pilot project public comment.

23 MR. LOGAN: And was a presentation provided?

24 CAL/EPA UNDERSECRETARY BRANHAM: No, we've opened
25 it up for comments. We will still -- we will revisit the

1 pilot project issue after we've made a decision. But many
2 people had to leave, so we've opened for comments on both.

3 MR. LOGAN: Okay. Well, I wanted to make a
4 comment in regard to the pilot project.

5 As I mentioned yesterday in my comment in regard
6 to the pilot project, I wanted to open by saying that I do
7 support the three private projects that have been proposed
8 in southern California: Wilmington, Mira Loma and City of
9 Commerce. But we've already met and we've started the
10 discussion in which we've identified the pilot projects as
11 these local cities, but that there was no real boundary
12 for a geographic area, so that we wanted to be able to
13 include facilities in areas of concern that might bleed
14 over into Maywood or Vernon or East Los Angeles or Bell
15 Gardens. Because, as we know, these environmental impacts
16 don't know any boundaries in regard to, you know, city
17 boundaries or whatnot.

18 So I just wanted to also support that. And we've
19 had that discussion. And I think the staff is on board
20 with that in concept.

21 Also, within looking at the proposal on pilot
22 projects, I find that there's a disconnect between the
23 three areas of focus, which are the cumulative impacts,
24 the precautionary approach and the public participation.
25 Although we've been meeting and talking and participating

1 in discussions with the staff in regard to the pilot
2 projects, I feel that this is a real opportunity to look
3 at more meaningful participation with the local
4 communities, so that we're at the table and that we are
5 determining what the projects look like and that they fit
6 into the bigger picture of the Environmental Justice
7 Action Plan.

8 And I would like to say that, you know, I feel
9 that we should move forward with it, but I think that we
10 should not make a concrete decision on what the program
11 should be or how the pilot project should look, but that
12 including more public participation in determining what
13 that is, so that we can really get what we need out of the
14 pilot projects so that they're not just an exercise that's
15 going to leave us where we started, and that they're of
16 substance and that we could walk away from it saying that
17 they've achieved the goals that we have set for ourselves.

18 Thank you.

19 CAL/EPA UNDERSECRETARY BRANHAM: Emma Suarez,
20 followed by Cindy Tuck.

21 MS. SUAREZ: Good afternoon. My name is Emma
22 Suarez and I'm an attorney with the California Farm
23 Bureau. I'm also an alternate to Ms. Southwick in the
24 advisory group.

25 And today I'd like to talk about the

1 precautionary approach and basically support the retention
2 of the word "serious" in the definition and adding the
3 word "irreversible". And in that sense we support the
4 comments provided by Ms. Tuck and other business groups
5 before.

6 And I just wanted to add, as you look towards the
7 future and the long-term impact of your work today, the
8 regulatory decisions which -- the regulatory decisions
9 that you and your colleagues make every day don't occur in
10 a vacuum. They are guided by statutory requirements and
11 court decisions.

12 And at some point I believe that the proposed
13 definition for "precautionary approach," the one that does
14 not include the words "serious and irreversible harm," it
15 it's not tempered, may result in decisions that err in the
16 side of protection. And when this occurs, decision making
17 ceases to be precautionary and becomes arbitrary,
18 resulting in unfair and challengeable decisions.

19 We believe that tempering the definition by
20 keeping, at the minimum, the word "serious" and adding the
21 word "irreversible" would go a long way in avoiding
22 arbitrary decision making.

23 Thank you.

24 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

25 And Cindy's going to talk about the pilot

1 projects, because we changed the rules after she spoke.

2 So Cindy.

3 MS. TUCK: Thank you.

4 Cindy Tuck with the California Council for
5 Environmental and Economic Balance. And the good news is
6 I just have one comment on all of the pilot projects. And
7 that happens to be the ARB pilot project.

8 And we appreciate working with staff. We thought
9 ARB has had a very good process in developing the pilot
10 project for ARB.

11 Our one suggestion at this time has to do with
12 the section on performance indicators. And we would
13 suggest the addition of one performance indicator, and
14 that would be to look at whether the pilot project was
15 able to compare the cumulative air toxics risk, not the
16 multi-media cumulative risk, but focusing in on the air
17 toxics risk for each of the three areas, comparing that
18 against the air toxics risk for the region. And that
19 could be done with the information that the South Coast
20 already does have for average air toxics risk for the
21 South Coast Air Basin. But then as ARB is looking at each
22 community, assess their cumulative air toxic risk and then
23 compare that to see what the difference is. And we think
24 looking at whether there's a disparate impact is an
25 important part of environmental justice and that would be

1 a smart element and a good performance indicator for the
2 ARB pilot project.

3 ARB EXECUTIVE OFFICER WITHERSPOON: I think
4 there's no problem doing that, and it's also consistent
5 with the work we did in Barrio Logan where we explored one
6 hypothesis after another. And one of the early hypotheses
7 was that there was elevated diesel levels, and that turned
8 out not to be true except in a very localized area around
9 the CalTrans maintenance yard and coming off the overpass.

10 And then we went on to other hypotheses and
11 eventually found a chrome plater. So I don't see any
12 difficulty in doing what you've asked for.

13 MS. TUCK: Thank you.

14 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Hopefully
15 we got everyone who had comments on the precautionary
16 approach for the pilot projects.

17 Okay. We're going to take a five-minute break.
18 Five minutes for the court reporter. So stretch in place
19 or -- if that's all you have to do And we'll pick it up in
20 five minutes.

21 (Thereupon a recess was taken.)

22 CAL/EPA UNDERSECRETARY BRANHAM: Okay. I'd like
23 to add one other item to the record under public comment.

24 Could everyone take their seats please.

25 We did receive a comment over the Internet from

1 Ken McGee. And Ken wrote supporting the pilot projects of
2 the State Water Resources Control Board in suggesting an
3 additional pilot of dealing with the mercury contamination
4 in Clear Lake be considered. So that has been received
5 and is now part of the record.

6 Okay. I think we're ready for the group -- to
7 bring it back to the group for a discussion on the
8 precautionary approach, which is before the working group.

9 Comments?

10 OEHHA CHIEF DEPUTY DIRECTOR SIEBAL: Jim?

11 CAL/EPA UNDERSECRETARY BRANHAM: Mr. Siebal.

12 OEHHA CHIEF DEPUTY DIRECTOR SIEBAL: I think from
13 OEHHA's perspective, you know, we find this a very
14 important definition to come up with. But, you know, our
15 organization's a science-based -- pretty much practices
16 public health protectiveness. And when I look at, you
17 know, discussions about serious or not having that in the
18 definition, being a public health protector, I think, you
19 know, we practice a margin of safety. We have uncertainty
20 factors and things of that nature. So on behalf of, you
21 know, Joan, I'm going to kind of listen to what the risk
22 managers have to say about how they want to approach this
23 before I make any final determinations where we stand as a
24 science organization.

25 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,

1 Val.

2 Other comments?

3 Catherine.

4 ARB EXECUTIVE OFFICER WITHERSPOON: Well, I'm
5 sorry Joe Lyou had to leave earlier today and then --
6 although Martha spoke, she didn't cover all the same
7 materials. Because the one thing that really struck me
8 yesterday was this discrepancy between the use of
9 "serious" and "irreversible" in the way that the business
10 group presented it and in the way Joe Lyou presented it.
11 And I wish we had gotten to the bottom of that factually
12 whether it's true that those other four organizations only
13 apply those qualifiers when deciding on actions as opposed
14 to deciding on doing analysis or if, you know, precautions
15 should be considered at all.

16 And I had hoped that that was going to iron out
17 the discrepancy, and I don't think it has. So that's
18 unfortunate.

19 And without that being resolved, I sort of come
20 down in favor of trusting the regulatory agencies, as
21 Nancy Sutley talked about earlier, to exercise
22 commensurate action with the level of risk, because it is
23 what we do. And Nancy brought up a point I hadn't thought
24 about, is that were one to insert the word "serious," it
25 might challenge some of the things we're already doing

1 that might not rise to some people's interpretation of
2 what "serious" is with respect to all the different
3 regulations we're already obligated to adopt. But I told
4 her ozone is more serious than she realizes, that the
5 health evidence is coming in every day of mortality and
6 other effects, for example.

7 The other thing that troubles me is just this
8 happened yesterday, two votes went against the business
9 community. And I don't know yet, because the other -- my
10 other colleagues haven't spoken, whether this vote's going
11 to go against them. And I'm searching my mind for, you
12 know, what are the ameliorating kinds of factors. We did
13 add process to our prior discussion. I can't think of
14 what the right one had is here. I mean it's just -- is
15 "serious" in or out? And, again, I come down on: Trust
16 us. We won't go crazy. We never have. And that it will
17 be proportional to the risk we see.

18 The other thing too is -- one comment got my
19 attention. I wondered all along why both our staff and
20 the Committee used the phrasing "reasonable threat of
21 harm" as opposed to "credible threat of harm". And I
22 just -- it came to my mind as reasonable people can
23 disagree all the time and reasonable people can be
24 paranoid about certain things. And I was sharing with
25 Nancy some of the things I'm paranoid about that aren't

1 particularly reasonable.

2 But if just someone had a comment on why. And it
3 wasn't challenged yesterday. It's just a question that
4 I've been carrying around with me ever since of why did
5 that word end up there instead of "credible". And we did
6 have one witness who suggested the word "credible" threat
7 of harm. And I don't know if that helps with the business
8 community either, if they think that's a worse standard
9 than "reasonable".

10 So those are my comments.

11 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you,
12 Catherine.

13 Nancy.

14 SWRCB MEMBER SUTLEY: Just on the issue as
15 whether to include "serious" or not. I guess I'd come
16 down, given that these are definitions for the pilot
17 projects, on taking "serious" out. And part of it is I
18 just -- as I think I was asking Cindy before, I have a
19 concern about just in terms of our existing regulatory
20 programs, you know -- somebody said before, you know --
21 what is it? -- prevention -- an ounce of prevention is
22 worth a pound of cure. Whether or not tying our hands
23 unreasonably or incredibly by sort of limiting what we're
24 going to be looking at, because I think, you know, we need
25 to find opportunities to prevent pollution, prevent harm,

1 because if we have to deal with it on the other end, on
2 the permitting side, on the end of the pipe side,
3 sometimes our options are very limited at that point.
4 And, you know, it's that old adage of, if all you have is
5 a hammer, everything looks like a nail. And so I think
6 we're sometimes left with having to use very blunt
7 irregular instruments to deal with harms that are not
8 that serious, when if we had sort of evaluated them up
9 front and found ways to prevent them, we could avoid the
10 lack of flexibility on the other end.

11 And I understand the concern about, you know,
12 putting something out on a piece of paper and it has a
13 life that goes far beyond these pilot projects. And I'm
14 trying to be sensitive to that concern. But on the other
15 hand, I think we won't know until we try and that -- you
16 know, I see the references to all of these other entities,
17 and I don't actually know what the context of these are
18 and whether these are actually applied to regulatory
19 programs or not. But I just think that if we're trying to
20 give ourselves the most flexibility to try some of these
21 things out and the most flexibility to deal with problems
22 up front, that we should see if we can apply this approach
23 without sort of limiting what we're applying it to and see
24 how it goes.

25 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.

1 Rosario.

2 CIWMB CHAIRPERSON MARIN: Jim, I'd like to ask a
3 very fundamental question, because when I looked at the
4 vote, that is 9 to 4 or whatever.

5 When we created -- when the Advisory Committee
6 was created, what was the make up? How many environmental
7 voices versus how many business voices?

8 CAL/EPA DEPUTY SECRETARY DODUC: The --

9 CIWMB CHAIRPERSON MARIN: It was 9 to 4?

10 CAL/EPA DEPUTY SECRETARY DODUC: No, the -- well,
11 actually the Advisory Committee, as specified in statute,
12 includes four business representatives, two from small
13 business, two from large; it includes two representatives
14 from a local planning agency; two representatives from a
15 certified unified program agency, two representatives from
16 a local air district. So that would be six local
17 government representatives. It also includes two
18 environmental justice organizations, two environmental
19 organizations, and two community organizations.

20 So that's six EJ environmental community
21 organizations, six local government, four business, and
22 the remaining position is that of a tribal representative,
23 a federally recognized tribe.

24 CIWMB CHAIRPERSON MARIN: So not everybody voted
25 yesterday?

1 CAL/EPA DEPUTY SECRETARY DODUC: That's correct.

2 We had a couple of members who could not attend.

3 CIWMB CHAIRPERSON MARIN: Okay. I wonder if

4 everybody had attended what it -- whether it would be.

5 Because you have 6, 12, 16 -- 17, right? Seventeen

6 people.

7 CAL/EPA DEPUTY SECRETARY DODUC: Yes, total is 17

8 representatives on the Advisory Committee.

9 CIWMB CHAIRPERSON MARIN: And only 13 came.

10 CAL/EPA DEPUTY SECRETARY DODUC: Thirteen voted on

11 this particular item. I believe more came but had to

12 leave early.

13 CIWMB CHAIRPERSON MARIN: Yeah. So if the other

14 four couldn't have come -- what I'm saying is that let's

15 not just jump to conclusions. Because it really -- it

16 really bothered me that -- it seemed like us versus them.

17 And I think that the whole reason why we have created this

18 thing is so that we can jointly come up with best

19 alternatives or solutions or, you know, a pathway. And so

20 I won't make too much of the vote. You know, there's a

21 reason obviously why we want the business interest and

22 there's a reason why we need to listen to what they have

23 to say. There's also a reason why we have to listen to

24 the other people. But to do much of the vote is -- it's

25 probably not a good idea.

1 And regarding the "serious" wording, there's a
2 reason why national, international organizations use that
3 as language. And is it our intent to break ground, to
4 heighten? Is that what we're attempting to do here, to
5 increase the level? I can understand what Nancy's saying.
6 We don't want by the use of these words to diminish the
7 regulatory authority that we have. But could this be seen
8 as increasing the threshold? That's what we are going to
9 be doing? You know, I think we need to discuss that.

10 But is that what we're attempting to do?

11 ARB EXECUTIVE OFFICER WITHERSPOON: Depending on
12 the context of those definitions, yeah. But that was what
13 it turns on, is whether the definitions that are referred
14 to in the business testimony are used as the main
15 precautionary principle definition or used only when
16 choosing what action to take. Because that was the
17 representation Joe Lyou made yesterday. And we haven't
18 been able to discern whether that was accurate or not.

19 So we're left to our own devices to tell whether
20 we're making this standard more stringent or making it
21 looser. We're just -- I don't know.

22 SWRCB MEMBER SUTLEY: Well, I also think that we
23 do need to think about, you know, the action being
24 commensurate with the threat, that I don't think we should
25 leave that thought aside. But I just -- I don't know -- I

1 mean I think it's hard to parse through this. But, as I
2 said, I mean my concern would be sort of limiting our --
3 you know, choosing to limit our own flexibility. And that
4 leaves us with less options on the other side.

5 And so this -- if we're going to try it at any
6 point, it would seem to me that this is the point at which
7 to try it. It may not work and we'd have to come back and
8 think about something else. But --

9 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Shankar.

10 ARB ADVISOR PRASAD: The staff originally had an
11 internal discussion and actually debated about what's
12 serious and irreversible. But we decided -- we opted to
13 include the word "serious" because this was more of a
14 precaution approach. So we did not want to raise the flag
15 of taking an anticipatory precautionary role unless
16 there's a -- the threat is big enough that it warrants an
17 early intervention.

18 But we were very reluctant to use the word
19 "irreversible" because we felt, like an asthma attack,
20 which it become serious, it is reversible, or a contact
21 dermatitis, which can happen with a pesticide spraying or
22 any other kind of a thing. So we thought that
23 "irreversible" becomes very difficult to prove. And
24 majority of the rare effects may not be even irreversible.
25 So in that context, we opted to keep the word "serious"

1 but not use the word "irreversible".

2 CAL/EPA UNDERSECRETARY BRANHAM: Thank you,
3 Shankar.

4 I guess back to the other point, that we
5 certainly, all of our agencies, will continue to operate
6 under the statute and the authorities and responsibilities
7 we have regardless of what language it's going to be. And
8 I Shankar has drawn a good distinction between what we're
9 considering here versus the everyday regulatory efforts
10 and enforcement efforts that we undertake.

11 I'd like to suggest, so perhaps we can move
12 along, that we consider the language recommended by the
13 Advisory Committee with the addition of the word "serious"
14 in front of "harm" and adopt that as our policy statement.

15 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Yeah, I'd
16 support that too.

17 CAL/EPA UNDERSECRETARY BRANHAM: Shall we do a
18 vote, or are you comfortable with that?

19 ARB EXECUTIVE OFFICER WITHERSPOON: Based on what
20 Shankar just said, I'm comfortable with that.

21 SWRCB MEMBER SUTLEY: I think let's give it a try
22 and see what happens. I think -- I'm little uncomfortable
23 with it, but I think, you know, given I think this is
24 where the sense of people are going and I think Shankar's
25 explanation is helpful, and let's just see what happens.

1 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.

2 Any other comments?

3 DPR DIRECTOR WARMERDAM: Just as a practical
4 matter, I think that most of us are probably at the point
5 where we're practically looking a little before the point
6 of seriousness, but I feel comfortable with Shankar's
7 explanation and I'm inclined to go with the thinking of
8 the group.

9 CAL/EPA UNDERSECRETARY BRANHAM: Okay. So I'm
10 going to read this now so we all are in agreement. I
11 guess it's -- it's not up there.

12 The language that I would suggest is: Taking
13 anticipatory action to protect public health or the
14 environment is a reasonable -- if a reasonable threat of
15 serious harm exists based upon the best available science
16 and other relevant information even if absolute and
17 undisputed scientific evidence is not available to assess
18 the exact nature and extent of the risk.

19 Any objections?

20 Okay. That's the language.

21 Thank you.

22 And Tam tells me I should read the language we
23 agreed to earlier.

24 Now you confused me.

25 Shankar will read the language.

1 ARB ADVISOR PRASAD: All right. It's just the
2 language about the cumulative impacts for the record.

3 Cumulative impacts means exposures, public health
4 or environmental effects from the combined emissions and
5 discharges in a geographic area including environmental
6 pollution from all sources, whether single or multi-media,
7 routinely, accidentally or otherwise released. Impacts
8 will take into account sensitive populations and
9 socioeconomic factors where applicable and to the extent
10 data are available.

11 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.

12 Okay. As I mentioned earlier, are not going be
13 able to take up the public participation recommendation
14 today. I understand the Advisory Committee did not get a
15 chance to discuss this either, and will do so at their
16 next meeting. So we look forward to continuing that
17 process. And I know Jim Marks in the DTSC who has been
18 leading this effort will continue the efforts working with
19 all of the stakeholders and the BDOs.

20 The pilot projects, we've had some public
21 comment. I suspect we are not interested in lengthy staff
22 presentations at this time. I think we're all -- sorry,
23 no offense -- all fairly familiar with those projects.
24 We've heard some comments from various stakeholders today.
25 And I guess it would now be up to the will of the group

1 moving forward.

2 And I should mention that the Advisory Committee,
3 as you heard earlier today, also did not get an
4 opportunity to consider these projects. They will also do
5 that at their next meeting, which they're going to try to
6 put together in the next couple of months, and will
7 work -- our staff will continue to work with them to
8 interact directly with the BDOs on the various pilot
9 projects. And I think it's important that we move these
10 projects forward because these are the real action
11 projects of -- we've discussed a lot of words today, but
12 now we'll talk about actions.

13 Mary-Ann.

14 DPR DIRECTOR WARMERDAM: I would like to suggest
15 that we approve, if it's appropriate, as a group, the
16 pilot projects that have been proposed by staff and start
17 the conversation with respect to moving these forward and
18 developing the LAGs and the other components that will be
19 required, so that we can get the -- at least from our
20 perspective, the necessary data to have a competent pilot
21 project at the end of this discussion and this space.

22 So I'd like to suggest we move forward with all
23 four of them.

24 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Thank you.

25 Other comments?

1 Catherine.

2 ARB EXECUTIVE OFFICER WITHERSPOON: I would
3 second that. But I'd ask to have the comment -- a lot of
4 what I heard yesterday was people wanting us to be more
5 explicit about the way in which the precautionary
6 principle we just adopted and the cumulative definition we
7 adopted earlier today would be woven into our pilot
8 project concepts. And so we're all going to have to think
9 about that more carefully as we go forward and be asking
10 community members about that. The local advisory groups
11 is what I think you meant when you said LAG. I was saying
12 there, "LAG, LAG. Oh, I know what that is."

13 DPR DIRECTOR WARMERDAM: My apologies.

14 ARB EXECUTIVE OFFICER WITHERSPOON: And then I
15 just received one other comment during the break in
16 addition to the three we heard already about Maywood
17 boundaries and comparing it to other sites. And that was
18 that we think about how we might launch accelerated
19 enforcement if while we're in these communities we trip
20 over enforcement problems. And that was always part of
21 our mindset. We never wrote that down. And so we'll
22 weave that into our write-up as well.

23 CAL/EPA UNDERSECRETARY BRANHAM: Okay. Great.

24 Any other comments?

25 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: All right.

1 So you're saying accepting all the pilot projects?

2 Because we have two.

3 CAL/EPA UNDERSECRETARY BRANHAM: Correct.

4 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: So

5 everybody just goes ahead with their proposed --

6 CAL/EPA UNDERSECRETARY BRANHAM: As planned,
7 correct.

8 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Okay.

9 CAL/EPA UNDERSECRETARY BRANHAM: Okay.

10 ARB ADVISOR PRASAD: The only thing is that the
11 Committee hopes to provide the input. And what -- if
12 there are any significant modifications, naturally I'll
13 recommend that they'll come back to you with respect to
14 BDOs, and we'll work out those things; as opposed to
15 bringing back to this whole group, which becomes very
16 difficult to assemble at short notice.

17 CAL/EPA UNDERSECRETARY BRANHAM: Right.

18 Okay. Thank you for clarification.

19 Okay. Without objection, then the pilot projects
20 are approved.

21 Any other business?

22 CIWMB CHAIRPERSON MARIN: I was thinking in my
23 mind, wearing my hat of the Integrated Waste Management
24 Board. What would it take -- I have no problem going
25 forward with the current pilot projects. And I know there

1 was a lot of effort and time and money, I'm sure, was
2 spent.

3 Sorry about that.

4 Somebody's calling me. Sorry.

5 CAL/EPA UNDERSECRETARY BRANHAM: We should pose an
6 E-waste fee for all those things or something.

7 (Laughter.)

8 CIWMB CHAIRPERSON MARIN: I know, I know. A
9 dollar fifty.

10 What would it take to come up with another
11 project? Because we -- our Board doesn't have any pilot
12 project. And I'm wondering whether -- to advance one
13 particular -- what would it be, the process? Or it's only
14 this four and -- I'm sorry -- six? How many projects are
15 there?

16 CAL/EPA UNDERSECRETARY BRANHAM: Six.

17 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Six.

18 CIWMB CHAIRPERSON MARIN: I'm probably going to
19 regret bringing this issue.

20 But is there an opportunity where later on we --
21 I'm not looking at Mark.

22 CAL/EPA UNDERSECRETARY BRANHAM: You feel left
23 out?

24 ARB EXECUTIVE OFFICER WITHERSPOON: It is --
25 Rosario, it is our expectation that although there's a

1 single BDO that's head of each project, that where we
2 encounter -- while we're doing air projects, where we
3 encounter waste-related issues, that the Waste Board would
4 join us and look into those. And, similarly, if a water
5 issue arises, the Water Board will come down.

6 And even if you don't develop a pilot project of
7 your own, you have considerable resources you could bring
8 to bear to help us.

9 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: You can
10 always give us money.

11 (Laughter.)

12 ARB EXECUTIVE OFFICER WITHERSPOON: Yeah, you can
13 give us money.

14 CIWMB CHAIRPERSON MARIN: Stand in line.

15 (Laughter.)

16 CAL/EPA UNDERSECRETARY BRANHAM: But I do think,
17 Rosario, if there are projects that you believe are
18 worthwhile, there's certainly nothing prohibiting you from
19 bringing those forward. They'll be not on the same cycle
20 as these, but obviously we'd be open to those.

21 Right. Okay, good.

22 CAL/EPA DEPUTY SECRETARY DODUC: All it takes is
23 you volunteering the staff time.

24 CIWMB CHAIRPERSON MARIN: Yeah, I know. That's
25 why I said I'll probably regret this after I mention it.

1 But there might be a -- there might be one or two projects
2 that I would love to have some of this new philosophy, if
3 you will, you know, use them, and to advance a couple of
4 projects.

5 So I don't know that I will or not. But I want
6 to make sure that if there is one, that I can come back to
7 this body and say, "This is one."

8 CAL/EPA UNDERSECRETARY BRANHAM: Okay. That would
9 be great. Thank you.

10 Leonard.

11 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Is there a
12 chance that the Advisory Board will change any of the
13 pilot projects? You know, because ours is kind of -- we
14 have one that's never been done before. So we -- it's
15 kind of a no road map. We're going to make history as we
16 go. So will the Advisory Board change?

17 ARB ADVISOR PRASAD: What they said was, go
18 ahead, start thinking about how you want to approach it,
19 form your local advisory groups. But before you launch
20 into something, so that we clearly understand what you are
21 going to do, let's be able to have -- providing -- put our
22 comments into that. So that is what they gave us. And
23 that is one of the reasons right from tomorrow we'll be
24 looking for dates and -- the earliest possible we can get
25 to assemble that group, we'll assemble that group.

1 ARB EXECUTIVE OFFICER WITHERSPOON: And, Leonard,
2 their biggest issue was: What does it mean in terms of
3 cumulative impacts and precautionary principle? So if
4 you're able to articulate that to the advisory group, then
5 they should like the project.

6 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Okay.

7 ARB ADVISOR PRASAD: In conceptual form they did
8 not have any serious problems with that. But then -- but
9 they all were, in particular -- as Catherine mentioned,
10 how will you integrate this cumulative impact definition
11 into your pilot project? How will you integrate the other
12 aspect, the precautionary approach, into the pilot
13 project? And how they will all be having a common thread
14 how that -- what will come out of each of them?

15 DTSC CHIEF DEPUTY DIRECTOR ROBINSON: Okay. And
16 we can do that. It's just ours is kind of a moving
17 target. It's not like it's just sitting there. We're
18 going to have to catch it and a lot of things -- the stars
19 have to be aligned just right and certain things have to
20 happen. So okay.

21 CIWMB CHAIRPERSON MARIN: One more thing, if I
22 may.

23 CAL/EPA UNDERSECRETARY BRANHAM: Rosario.

24 CIWMB CHAIRPERSON MARIN: I'm sorry. I
25 remember -- this thing came to my mind.

1 For public participation -- and I know we're not
2 going to deal with that this time. But for your
3 projects -- I just want you to know we went through a
4 cleanup of La Montana and Huntington Park. We're going
5 through it. The people that were involved have really
6 lauded the process that we utilized in bringing this
7 information into the community and how we went ahead with
8 all the protocols that we utilized. And, for your
9 information, we have that available. If anybody would
10 love to use -- could use it, we would love to give it to
11 you. We're very proud of the process that we utilized,
12 public participation process, in cleaning up the mountain.
13 So you're welcome to have it.

14 CAL/EPA UNDERSECRETARY BRANHAM: Thank you.

15 Okay. One other comment we received and want to
16 make sure is a part of the record, it's from Theresa
17 Deanda, who commented on the -- in support of the DBR
18 pilot project, and says, "Do more, faster."

19 And also a comment on the precautionary principle
20 and in support for that, including not having the word
21 "serious".

22 Okay. Any other issues that we need to cover?

23 Okay. Everyone can smile now, especially you,
24 Tam.

25 Thank you all for your perseverance and patience.

1 Mary-Ann.

2 DPR DIRECTOR WARMERDAM: Before we adjourn I
3 would just like to acknowledge and thank Tam for the work
4 that she's done on behalf of not only the Advisory
5 Committee, but also on behalf of the BDOs, and express my
6 appreciation to her. And welcome, Shankar, to this merry
7 little discussion.

8 CAL/EPA UNDERSECRETARY BRANHAM: Thank you. And
9 that's well stated.

10 (Applause.)

11 CAL/EPA UNDERSECRETARY BRANHAM: Thank you all.

12 Meeting's adjourned.

13 (Thereupon the California Environmental
14 Protection Agency, Interagency Working
15 Group on Environmental Justice meeting
16 adjourned at 5:40 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Environmental Protection Agency,
7 Interagency Working Group on Environmental Justice meeting
8 was reported in shorthand by me, James F. Peters, a
9 Certified Shorthand Reporter of the State of California,
10 and thereafter transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 1st Day of March, 2005.

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